

STATE OF CALIFORNIA  
MEETING OF THE  
CALIFORNIA INSPECTION & MAINTENANCE REVIEW  
COMMITTEE

Tuesday, November 28, 2006  
California Air Resources Board  
1001 I Street, Coastal Hearing Room, Second Floor  
Sacramento, California

1 **MEMBERS PRESENT:**

2 VICTOR WEISSER, Chairman  
3 JUDITH LAMARE, Vice Chair  
4 JEFFREY WILLIAMS  
5 ROGER NICKEY  
6 BRUCE HOTCHKISS  
7 ELDON HEASTON  
8 JOHN HISSERICH  
9 GIDEON KRACOV

10  
11 **MEMBERS ABSENT:**

12 Al "SKIP" SOLORZANO  
13 PAUL ARNEY

14  
15 **ALSO PRESENT:**

16 ROCKY CARLISLE, Executive Officer  
17 STEVE GOULD, IMRC Consultant  
18 JANET BAKER, Administrative Staff  
19  
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P R O C E E D I N G S

CHAIR WEISSER: Ladies and gentlemen, I'd like to call this meeting to order. Today is our November 28, 2006 meeting of the Inspection and Maintenance Review Committee and I want to welcome each and every one of you here. As our normal request, please put your cell phones onto the stun setting. We have a pretty full agenda today and some of you may be wondering why this amazingly beautiful bouquet of roses and lilies and other pretty flowers are up here. Ladies and gentlemen, this is to announce my engagement to our Vice Chair, Jude Lamare. No, as some of you know, this is my last meeting as Chair and a Member of the Inspection and Maintenance Review Committee and I want to thank the Members of the Committee for presenting me with this beautiful bouquet. I kind of really like flowers and this is a beauty. And I think the roses represent each of the whiplash marks that I have received along this journey. With that, what I'd like to do is to ask Committee Members to introduce themselves and we'll start from the far left.

MEMBER HISSERICH: John Hisserich.

MEMBER HEASTON: Eldon Heaston.

MEMBER WILLIAMS: Jeffrey Williams.

MEMBER DECOTA: Dennis DeCota.

CHAIR WEISSER: I'm Vic Weisser, the Chair.

MEMBER LAMARE: Jude Lamare.

1 MEMBER KRACOV: Gideon Kracov.

2 MEMBER HOTCHKISS: Bruce Hotchkiss.

3 MEMBER NICKEY: And out here on the far right, I'm Roger Nickey.

4 CHAIR WEISSER: The seating chart has finally been appropriately  
5 arranged. I will mention the fact that Paul Arney,  
6 unfortunately, will not be here, and neither will our newest  
7 Member, Skip Solorzano, who wrote us a very nice email  
8 describing why he is unable to join us. Skip is the new  
9 Governor's appointment replacing long-time Committee Member,  
10 Robert Pearman, who, I will just say for the record, I think  
11 was a stalwart Committee Member. He always had his feet on  
12 the ground. He asked questions that frankly I never thought  
13 of and it's that sort of different thinking that emerges  
14 among us because we're all such different people that I  
15 think lends great strength to this Committee's efforts in  
16 terms of attempting to meet our charge of providing an  
17 independent review and recommendations on the Smog Check  
18 Program. So I'm going to miss Robert and, unfortunately, I  
19 will not meet Skip, though I understand he lives in my  
20 neighborhood in Oakland, so maybe our paths will cross one  
21 of these days.

22 --oOo--

23 CHAIR WEISSER: The next order of business will be the approval  
24 of the minutes from the meeting of October 24<sup>th</sup>. Committee  
25 Members, have you had an opportunity to review those

1 minutes? Are there any proposed suggestions? Then may I  
2 hear a motion to adopt the minutes? Mr. DeCota so moves,  
3 Ms. Lamare seconds. Are there any discussions? All in  
4 favor, please signify by saying aye.

5 ALL MEMBERS: Aye.

6 CHAIR WEISSER: Any opposed? Hearing none, the minutes are  
7 adopted.

8 --oOo--

9 CHAIR WEISSER: And we'll now turn to our fourth agenda item  
10 which is our Executive Officer's, Rocky Carlisle, report.

11 MR. CARLISLE: Thank you, Mr. Chairman. Other than gathering  
12 data and working on this report, not a lot has been going  
13 on, but I will tell you that I attended a BAG meeting, the  
14 Bar Advisory Group meeting that's put on by the Bureau of  
15 Automotive Repair. I've attended several of them and the  
16 difference with this one was it was a give and take, instead  
17 of just give. In meetings past, the BAR disseminated a lot  
18 of information, but there was never any two-way  
19 communication, if you will. This one was a nice change.  
20 There was a lot of exchange with regard to a regulations  
21 package that was submitted in draft form. It hasn't been  
22 filed with OAL yet, but I'm told that it will be shortly.  
23 And I think I sent the Committee a copy of that draft  
24 regulations package. The other thing, we've been collecting  
25 a lot of data for Dr. Williams, I'm sure he's been busy

1       crunching numbers. We've got a new DMV dataset, we've got  
2       some additional BAR 90 data from the Bureau of Automotive  
3       Repair and that was delivered. And I wanted to comment,  
4       too, with regard to the handout I gave you this morning that  
5       I have put in comments, there's a recap in the report of the  
6       comments we received from six entities and I've put the  
7       individual comments in Sections 4, 5, and 6 of this handout.  
8       And Section 7 is some correspondence received this month.  
9       Pretty much, that concludes my report.

10   CHAIR WEISSER: And we'll go through that in detail when we get  
11       to the discussion of the report. Nothing to report in terms  
12       of the legislature, Rocky?

13   MR. CARLISLE: No, not to my knowledge.

14   CHAIR WEISSER: One of the things that you might want to inform  
15       the Committee at our next - at the Committee's next meeting  
16       is the make-up of the Committee's that - bills affecting the  
17       Smog Check Program. We'll go through - the Committee make-  
18       ups will be announced by then and it might be helpful to  
19       Committee Members to know who the players are.

20   MR. CARLISLE: I'll get that information.

21   CHAIR WEISSER: Are there any questions or comments that any  
22       Committee Members have for Rocky? Hearing none, we'll go to  
23       our next item which is an update from Steve Gould regarding  
24       some issues that got a lot of email traffic over the past  
25       several weeks. Steve?

1 --oOo--

2 MR. GOULD: Apparently they did. Steve Gould speaking. I have  
3 written up a short paper for the Board on performance  
4 measures and incentives which is in addition to what I sent  
5 you before on email. But I want to reiterate a couple of  
6 the themes that I was discussing earlier. Number one, the  
7 number of fraudulent stations is certainly very large. I  
8 took after Chairman Weisser on his comment that there was  
9 just a few bad apples. I would only have done that because  
10 he's a lame duck, but -

11 CHAIR WEISSER: There is a price to be paid for that, you know,  
12 Steve.

13 MR. GOULD: But I do think that it's useful and accurate to  
14 think of the number of really fraudulent stations in the  
15 hundreds and I hazard to guess of at least 500. I think  
16 that it's pretty clear, given the data we got from Sierra  
17 Research last month, that there are awful lot of vehicles  
18 which appear to be clean-piped and we have to leave it up to  
19 Sierra to come to a conclusion on that because that's their  
20 data, but you really couldn't explain this large number of  
21 vehicles unless you have 500 or 1,000 stations that were  
22 regularly engaged in some fairly serious fraud. But the  
23 other thing that I want to mention is the statistic that I  
24 always got from the triggers programs that I ran during the  
25 1990s, which was that we always found about - and I'm going



1 to give a visual chart here so you can see it; we always  
2 found about 10 or 11 percent of the stations came up with  
3 numbers that really looked fraudulent. Then you had 70  
4 percent that were on straight line and 20 percent which  
5 looked very, very clean. Because of the nature of the  
6 triggers program, which was looking for bad stations, we  
7 never found out very much about the 70 percent or the 20  
8 percent. But I think that 70 percent is relevant in the  
9 sense that it tells us that there are a lot of stations  
10 which may not be doing things exactly right. They may or  
11 may not be crooked. I joked with you that we found Rocky  
12 way in the good corner of the graph, but I would have to say  
13 that if Rocky had ever clean-piped his grandmother's car, we  
14 would have never seen it statistically. So we really don't  
15 know very much about that part of the graph, but I'm  
16 confident that based on what I used to see and so forth,  
17 that 500 is not a bad number, but I'm also concerned about  
18 the 70 percent of stations that maybe are sloppy or  
19 something like that, so that could be a problem. The second  
20 theme that I had discussed before was the notion that the  
21 licensing paradigm, which is used by the BAR really does not  
22 force stations to be the best that they can. Really about  
23 the only way you can take away a license is by catching the  
24 station in fraud. And there are some critics of the BAR who  
25 say the BAR is over-emphasizing fraud. But that's the only

1 tool that they have. There is nothing like a contract  
2 process or performance standards for stations by which you  
3 can hold them fast and which create incentives for them to  
4 perform better. It's either all or nothing. You catch them  
5 at fraud or they go on and do what they do. And I think  
6 that that's not a very healthy situation for a clean air  
7 program which was trying to achieve maximum results. So  
8 that's my criticism of the whole licensing paradigm. I will  
9 point out that in terms of technician licensing, federal  
10 law, the Equal Opportunities Act of 1965, requires that BAR  
11 do the technician licensing in the way that it does and so  
12 that's very strictly controlled and very well done as far as  
13 I know. But station licensing is a different issue. The  
14 third small theme is that station owners really do need to  
15 be given public reports on their station's performance,  
16 whether it's a financial performance, a failure-rate  
17 performance, anything else. We expect station managers to  
18 manage in the interest of clean air. That's our  
19 expectation. But are we good partners in that? Perhaps  
20 not. We simply have the data, but we don't give the  
21 stations the data. We don't alert the station owner that  
22 maybe he has a technician who isn't doing things quite right  
23 and so I think that that's something that I'll allude to  
24 later, in a few minutes. The final point is that I think we  
25 need to - in terms of general themes, is that we need to

1 really seriously audit the Smog Check Program in order to  
2 get some kind of an understood picture of what the fraud  
3 rate really might be. Five hundred for me is a conjecture,  
4 it's nothing to be taken very seriously, but it's a realm of  
5 magnitude. However, after 20-some years with the Smog Check  
6 Program, we have no agreed upon way in which to measure the  
7 amount of fraud that is going on out there to make  
8 estimates, make a consensual estimate that the Committee  
9 could agree with and the BAR would agree with. We have no  
10 way of doing this and 20 years without some kind of a  
11 consensual estimate on what is really one of the key parts  
12 of the program - this is a decentralized program. This is  
13 how we differ from most other programs throughout the United  
14 States. And if we cannot make our control of fraud a  
15 success, then this is something the legislature needs to  
16 know and we all need to deal with it. That said, I wanted  
17 to concentrate more on the performance measures that I was  
18 proposing. As a matter of background, my philosophy is that  
19 you ought to have a broad set of performance measures that  
20 look at every kind of behavior that you really want from a  
21 station, and that they ought to be balanced, they should not  
22 have too much weight on any one particular item and that  
23 these are rather complicated to program. I mentioned that  
24 it took us - the first time we programmed triggers, it cost  
25 \$120,000 in cobalt (phonetic) because each of the 18 or 19

1 modules that we created had 10, 15, 20 steps, all of which  
2 were designed to clean the data and to make sure that the  
3 data were accurate and didn't misrepresent what a station  
4 was doing. And so I'm thinking of something that is equally  
5 complex and equally laborious, because we're dealing with  
6 stations' money here as I'm going to describe in terms of an  
7 incentive proposal. We're taking money out of somebody's  
8 pocket or putting into someone else's pocket, and in order  
9 to do that, you have to be number one, public; number two,  
10 accurate. So the measures that I were proposing were  
11 basically an overall fail rate and most of these measures  
12 are based on some kind of an expected versus actual ratio  
13 calculation. We did this in the 1990s based on vehicle age.  
14 It seemed to work quite well. We now have other programs  
15 that go by make, model, and so forth, the high-emitter  
16 profile concept, and that is, in my mind, unquestionably  
17 more accurate. So however you measure the expected to  
18 actual failure rate, I think that that's probably the way to  
19 do it and that's the most fair for all the stations.  
20 Certainly the most important thing is the tailpipe failure  
21 rate. We saw in Phil Heirig's data that it was based on  
22 tailpipe failure rates and we saw some things that we really  
23 would not want to see and so that's a very important thing  
24 to look at. Second, overall failure rate was 10 percent,  
25 tailpipe failure was 20 percent, functional failure rate, 15

1 percent. And again, that's kind of a seat-of-the-pants  
2 judgment on my part because it seems that that's one of the  
3 things that's not done very well. And that tampering is not  
4 the issue that it used to be 20 years ago and so that's why  
5 I gave it only a five percent weight. However, that is  
6 entirely a matter of judgment and it's entirely a matter of  
7 policy how much weight you want to put on any of these  
8 modules. Finally, gross polluter identification. Again, I  
9 think it's possible to do that even though GPs are only a  
10 small percentage of the vehicles that are inspected. You do  
11 have to be particularly careful with that because of the  
12 statistically small sample that you might get from some of  
13 the lower-volume stations. But, again, that's an important  
14 part of the program. Aborts - from what we've been told,  
15 the habit of aborting the test has been considered to be  
16 pretty well correlated with fraud. I don't know what BAR  
17 thinks about that, and I'd like to hear it, but aborts to me  
18 are a serious indicator of some possible fraud. When you  
19 stop the test in the middle of the test and then start it  
20 again, you will have either committed fraud or you will have  
21 done something to super-warm-up the car and super-heat the  
22 catalyst in order to make it pass. So I would look to a low  
23 abort rate as one indicator of the kind of performance that  
24 I'd like to see a station have. And then a couple of really  
25 different ideas, and that is complete repairs which mean

1 getting the most emissions reductions that you can from a  
2 car and I think this Committee has mentioned a number of  
3 times and discussed the fact that repairs don't seem to  
4 last. Again, that seems to be the case from Phil Heirig's  
5 data. Repairs don't last and what's more, we don't clean  
6 the car to the extent that it's really feasible to do so.  
7 So some kind of a metric that is based on getting the  
8 emissions reductions that we think are possible and not just  
9 the minimum emissions reductions, that's another thing that  
10 we expect stations to do and I think we can measure them on  
11 that. Next is passing the next test and it again goes  
12 directly to the kind of data that Sierra is presenting where  
13 you have 20 percent of cars that passed the prior test are  
14 now failing within a short period of time and nearly 50  
15 percent of the cars that failed the prior tests are found on  
16 roadsides to be failing again after they were supposed to  
17 have been repaired. And so I think it is a very important  
18 thing for a station to have a reputation and, in fact, to  
19 perform in such a way that cars will pass the next test.  
20 That is in fact a consumer protection because the consumer  
21 then does not have to pay twice for repairs that should have  
22 been done right in the first place. The final thing that I  
23 was going to suggest in terms of performance measurements is  
24 reporting repair costs and, I can tell you that ever since  
25 the inception of the program, we've always wondered about

1       whether the repair cost reports were full and complete and  
2       so forth. Many stations just don't do them or rarely do  
3       them. But that's an important measure in terms of our  
4       knowing the actual cost of the program for consumers and so  
5       I would stick that one in and say that's something I'd like  
6       to see every station doing as best they can, understanding  
7       that test-only stations are not going to be in a position to  
8       do that. So those were the measures I'm proposing. And  
9       then what do I want to do with results? I had simply  
10      mentioned, and again, for discussion, I'm not stuck on any  
11      numbers, that as an incentive for stations, you divide the  
12      stations into six or seven groups, you take the best  
13      stations and you get them certs for \$4.75. You take the  
14      worst stations, you sell them certs for \$10.75, and the  
15      stations that you don't have any data on or where the data  
16      aren't statistically reliable, you stick with the \$8.25 cert  
17      fee that we now have. But you create, and, again, I'm going  
18      to refer to that 70 percent of stations, you create  
19      incentives for that 70 percent of stations to do better, so  
20      that if my friend Rocky had been clean-piping his  
21      grandmother's car, he would stop doing that because there's  
22      money in it for his station. So those are basically the  
23      incentives that I'm proposing. I don't know whether they  
24      would work and I have to say that that's going to be a  
25      matter that the Committee could certainly debate, that might

1 be worth discussion in the industry. I don't know whether  
2 those incentives are enough, but I do know that our program  
3 now does not have incentives for doing better, other than  
4 occasional situations where somebody gets a special piece of  
5 paper from the State, more or less like the attendance  
6 awards that you might have gotten when you were in grade  
7 school that said, good job, keep it up. But there are  
8 really not those incentives, and it goes back to what I'm  
9 saying about the licensing program where in effect the only  
10 disincentive the BAR can offer you is to take your license  
11 away if they catch you with fraud. And so I think that this  
12 is a step in the right direction. Whether it solves the  
13 problem or how well it solve the problem, that's certainly  
14 worth discussion. I think that's about all I wanted to say.  
15 I did have some pros and cons on the issues, but I think I'd  
16 rather hear your questions and comments first.

17 CHAIR WEISSER: Thank you, Steve, for laying out the Committee's  
18 agenda for next year. First of all, are copies of this  
19 available for the audience, have they been made available?

20 MR. CARLISLE: Not yet, but we can. This was technically a  
21 work-in-progress.

22 CHAIR WEISSER: It seems to me that it would be really desirable  
23 to get this out in public because I do think that before any  
24 next steps are taken, this needs to be subject to  
25 considerable public discussion. Having said that, I



1 personally, and on behalf of the Committee, Steve, want to  
2 thank you for kind of teeing this issue up and teeing it up  
3 in kind of a sober and analytical fashion and identifying,  
4 for at least this Committee Member, the elephant in the  
5 room. Because indeed, as I spoke in the last meeting, it  
6 has been my impression that while cheating may have been  
7 rampant in the program in its early years, the impression  
8 that I have gathered over the years and during my period of  
9 time on this Committee has been that the number of scofflaws  
10 and crooks has really declined to the point where it isn't  
11 rampant. Your guesstimate of 500, maybe even 1,000, crooks,  
12 people who are willfully violating the public trust for  
13 individual gain, both them and the customer they might add,  
14 is to me incredibly disturbing and for that reason, I guess  
15 I'd like to spend a little time now, if you would, with the  
16 Committee and with the public in the audience, describing  
17 what's led you to believe that in fact it's not a handful of  
18 rotten apples in the barrel, it's bushels.

19 MR. GOULD: Well, to respond to one of your comments that things  
20 have improved, that's what my data showed when I was doing  
21 triggers. The first time I did it in 1993, it looked like  
22 11 percent of the stations were pretty crooked. Of course,  
23 we always had the attitude that just because the numbers  
24 look bad doesn't mean that the station is necessarily bad,  
25 but that would require an investigation to actually find

1 out. But, six years later, the last time I did a trigger's  
2 run, it had gone down to nine percent and I thought that was  
3 a pretty reasonable improvement and I'm not such a bad  
4 statistician as to put a ruler on that and say, gee, six  
5 years later it's now gone down from 11 to 9 to 7. That  
6 would be pretty crazy. What I am suggesting is that  
7 something in the magnitude of seven percent of the stations  
8 wouldn't at all surprise me, and seven percent is about 500.  
9 The second reason that I think the number is fairly is,  
10 again, you look at what Phil Heirig's, Sierra Research's,  
11 numbers imply for the amount of clean-piping or really poor  
12 repairs that goes on. And it could be a failure on the  
13 initial test and then clean-piping on the second test or  
14 however that works out, or just a really poor repair. But  
15 you look at the implications of that and you can say, well,  
16 how can any less than 500 stations be accounting for this?  
17 We're talking about 20 percent of the cars that passed a  
18 prior test are now within a few months failing, and what  
19 does that imply? Well, you can't get that number of  
20 vehicles with only a few rotten apples. It has to be  
21 hundreds and hundreds and hundreds of stations accounting  
22 for this or -

23 CHAIR WEISSER: Who are either cheating during the test or doing  
24 marginal repairs; is that correct?

25 MR. GOULD: Yes.

1 CHAIR WEISSER: Thank you.

2 MR. GOULD: But you have to look at the fact that there are 20  
3 percent of the cars that are failing within, let's say, six  
4 months of the test, but only 14 percent according to the BAR  
5 stat fail in the first place. So you're immediately caught  
6 with the idea that six percent clean-piping is likely.

7 CHAIR WEISSER: Could you repeat that again? I didn't  
8 understand what you just said.

9 MR. GOULD: Well, if you look at Sierra's data - and you  
10 remember it doesn't track those curves, those straight lines  
11 don't track back to zero, and so what they're showing is  
12 that the vehicles on the roadside - of those that passed the  
13 prior smog test, 20 percent are failing. But only 14  
14 percent in the normal BAR data fail. If you look at the BAR  
15 monthly reports, they say 14 percent are failing. Well, if  
16 it looks like 20 percent are failing when you see them on  
17 the roadsides, 20 minus 14 is six and then you have to say,  
18 that's possibly clean-piping. So to go back and to answer  
19 your - is that making sense, Vic?

20 CHAIR WEISSER: Yes, it is. I want to give it some thought.

21 MR. GOULD: Okay.

22 CHAIR WEISSER: You have two different test methodologies, of  
23 course, two different set-ups.

24 MR. GOULD: The test methodology on the roadsides is the same.

25 CHAIR WEISSER: They have the dynos, they have everything set up

1           there?

2   MR. GOULD:   Yes, yes.

3   CHAIR WEISSER:   The car preparation is different, but you would  
4           expect cars to be actually warmer if they were on the road.

5   MR. GOULD:   Yes, you would, and they would be correctly warmed  
6           up.

7   CHAIR WEISSER:   I'm so interested in hearing other Committee  
8           Member's questions and the responses from the agencies and  
9           the audience, the stakeholders in the audience, I'm going to  
10          shut up for a minute.

11   MR. GOULD:   Okay, well, let me finish the discussion here.   You  
12          asked me why I thought 500 and so forth.   The third reason  
13          is that you can look at the BAR data on enforcement as  
14          reported in their most recent BAR/ARB evaluation report, and  
15          they will show that for a period ending, I believe, in 2003  
16          and 2004, for seven years, they averaged 305 successful  
17          enforcement actions, meaning actions which actually resulted  
18          in taking someone's license away.   Well, if they average 305  
19          and let's say their hit rate on undercover investigations  
20          was 75 percent, that would tell you that there were 400  
21          stations that were probably cheating, but they only got 75  
22          percent, they only got 300.   Moreover, you have to think  
23          about all the stations for which they didn't get a tip, for  
24          which the statistical evidence wasn't yet bad enough to  
25          cause an investigation.   And I certainly knew that having

1 done that for six, seven years on the triggers thing, I  
2 could see that the statistics will take some time to catch  
3 up with the station's bad performance. So if it's 300, 400,  
4 500, you're again in the same realm that I'm talking about,  
5 which is a fairly minimum realm and that simply comes out of  
6 the BAR enforcement data. And I think I would add one other  
7 thing, that BAR doesn't have the resources or the staff to  
8 investigate everything that they think might be crooked. So  
9 it gets to be a real problem. I'm answering your question  
10 here and that's probably enough.

11 CHAIR WEISSER: And I think you've done an admirable job. I  
12 think it's important for the audience to get a good  
13 understanding of what generated that guesstimate and I want  
14 to emphasize, Steve, I think you've done a terrific service.  
15 A, you not only pointed out the elephant in the room, but B,  
16 you've started the design of the elephant gun to attempt to  
17 say, hey, the pea-shooter that we're using now hasn't been  
18 working as well as you'd like. The object of enforcement  
19 programs is compliance and you're not seeing the sort of  
20 level of compliance that everyone would want. And so you're  
21 suggestion of coming up with an incentive-based program and  
22 really kind of changing the program from a licensing program  
23 to a contracting program in a way almost, is very creative,  
24 very thoughtful and I think it's laid out something that  
25 will be an enjoyable debate for you and others in the months

1 to come.

2 MR. GOULD: I would also like to point again, back to one of my  
3 main themes is that I would like to see some kind of an  
4 agreed upon audit method where if 500 is a bad number,  
5 somebody else will propose that's good and so that over  
6 time, this Committee and others will be able to look at what  
7 progress is being made and how effective we're doing this  
8 job.

9 CHAIR WEISSER: We have a pretty significant agenda ahead of us  
10 today, so we're only going to be able to touch the very  
11 surface of this discussion today and I would suggest that we  
12 need to limit the discussion among ourselves to 20 minutes,  
13 no more than that. So what I think the object of today was  
14 raise the issue, alert us to this, the Committee then needs  
15 to come to an agreement among itself as to how it would want  
16 to proceed on this. So questions and comments I think might  
17 want to be directed toward that and what do you want to do.  
18 Gee, there's an elephant in the corner, the existing thing  
19 that we're trying to use to guard against that elephant  
20 doesn't seem to be working as much as we'd like, here's  
21 another approach that might work. What do you guys want to  
22 do with that? Let's just first open up to Committee Members  
23 for their thoughts and comments and we'll start with Roger.

24 MEMBER NICKEY: Steve, I - Roger Nickey - Steve, I believe I  
25 heard you say that there's a lot more to judging station

1 performance than failure rate. Is that correct?

2 MR. GOULD: Yes.

3 MEMBER NICKEY: There's a lot more than just failure rate. The  
4 other thing I wanted to mention was you're talking about  
5 abortions being an indication of fraud. Were they sorted out  
6 in any way or was it just all abortions? Because what I'm  
7 getting around to is there are many, many reasons for an  
8 abort that are outside the control of the technician. The  
9 machine will abort a test, humidity's out of range, speed's  
10 out of range, there's all kinds of things the machine will  
11 just flat abort a test and we have no control of that.

12 MR. GOULD: That's true, but if you're talking about 7,000  
13 stations doing 1,300 tests a year, it ought to even out.  
14 Your station isn't going to have more abortions than some other  
15 station unless there's some reason that I don't know of that  
16 maybe your analyzer is different and so forth. I would  
17 think that a very large sample, the number of abortions would  
18 be fairly spread out among all stations and only the  
19 stations that are really extreme are going to stand out  
20 badly in a test like that.

21 MEMBER NICKEY: Okay, rather than get in a long discussion about  
22 abortions, I'd just like to have the understanding that there  
23 are other reasons for abortions other than fraud.

24 MR. GOULD: Absolutely.

25 MEMBER NICKEY: Cheating does not happen in a vacuum and I would

1       assume that the only reason for cheating is monetary, so  
2       others have to know of the cheaters. Why not have some way  
3       of some reward, \$1,000 for turning in somebody that actually  
4       gets convicted of clean-piping. If I know of somebody down  
5       the street that's doing it, rather than shut up and ignore  
6       them, why don't I turn him in, have an investigation, and if  
7       it's found out that he is and loses his license, I get a  
8       reward? That's monetary and I think it might take the  
9       incentive for some of these guys to stop doing it.

10   CHAIR WEISSER: Good suggestion for consideration in the future.

11   MEMBER NICKEY: Okay, my last item was that roadside testing - I  
12       have a lot of issues with that because I actually went out  
13       and spent about an hour with a group that was doing roadside  
14       testing and it's quite different than having the test done  
15       in a shop. For instance, they don't open the hood. There's  
16       no visual or functional with a roadside test. They just  
17       pull the car up on the machine, do an exhaust run and out it  
18       goes. And in fact, there's no fast-pass, so the test is  
19       actually done differently than in the station. And they are  
20       also very selective. A car comes up - they have a criteria  
21       that they follow and they reject a lot of cars that they  
22       pull over for testing. They just don't test every one they  
23       pull over. They sort them; did it have a test a little  
24       while ago, does this fit the parameters that we want? You  
25       go on, we're going to take the next one. They may reject



1 two or three cars before they get one they test, so I'm  
2 saying that it's quite different roadside testing versus  
3 testing in the shop.

4 MR. GOULD: My response to that is I haven't done roadside  
5 testing for six to seven years for fairly obvious reasons,  
6 so I don't know what the methodology is that they use right  
7 now. I know that they used to open up the hood and do the  
8 full functional test.

9 MEMBER NICKEY: The group that I was with did not. When they  
10 selected on they wanted to test, they ran it up on the  
11 machine, they ran the ASM, and out it went.

12 CHAIR WEISSER: Well, it's something that needs to be explored.

13 MEMBER NICKEY: Yes, they even had a different vehicle  
14 inspection report in a totally different format and it was  
15 basically exhaust related. It had nothing to do with visual  
16 and functional.

17 CHAIR WEISSER: Thank you. Bruce?

18 MEMBER HOTCHKISS: Yes, because you wanted us to stay rather  
19 brief, I think this is a topic that we need to dedicate a  
20 lot more time to. I think there's a lot of issues that we  
21 can look at. Enforcement could probably take up many  
22 meetings. But just one thing on this paying shop owners to  
23 rat out somebody, I don't know if the shop owners are - if  
24 they need money to be honest and to point out the people  
25 that are being dishonest, I have a problem with that. As

1       you know, when I was BAR, I did enforcement for a number of  
2       years. I had one shop over ever drop a dime on somebody.  
3       So the opportunity's there and if you're running an honest  
4       shop I'm not sure why you would hesitate to turn in somebody  
5       that was running a dishonest business. And I don't think  
6       money is going to do it.

7 CHAIR WEISSER: But you do think this is a subject that is  
8       worthy of further investigation?

9 MEMBER HOTCHKISS: Definitely.

10 CHAIR WEISSER: Gideon, do you have anything? Jude, nothing?  
11       Dennis?

12 MEMBER DECOTA: Well, Steve, I am a little taken back by your  
13       comments as far as the fraudulent part of the industry. I  
14       think there are errors made in all of these areas and I  
15       think they are important that the Committee look at it, but  
16       intentional fraud to cheat the program, I don't think it  
17       exists in the magnitude that you're trying to represent  
18       here. And I think that we need to look at this now and  
19       flush it out and prove it. I don't believe that you'll find  
20       six percent of the cars being clean-piped. I think that is  
21       statistically inaccurate and as an industry person  
22       representing industry people, I take a little offense at  
23       that because that is deliberate fraud by any means. I think  
24       also that the program lacks foundation in helping the shop  
25       owner to complete the task in a manner that would take and

1       adhere to all the triggers. I hope you realize that I was  
2       part of the group that helped set up those triggers that  
3       you're talking about and I understand the purpose of the  
4       triggers and that they're to help the wheat from the shaft,  
5       so to speak, when it comes to fraudulent activities, but one  
6       in itself may not indeed be an act of fraud as most people  
7       look at the term fraud. You do an abort because you've got  
8       a good customer that you've had a rapport with for 20 years.  
9       You see the car is going to fail, you repair the problem, it  
10      doesn't get reported, it is fraud in the program. Is it  
11      intentional fraud by the shop owner to take care of his  
12      customer? Does he clean the air as an end result of his  
13      performance? Does the law say to the consumer you must  
14      bring the car into specification and fix it? No. It leaves  
15      it void and ambiguous. I can change a spark plug for a  
16      burnt valve and pass that car. Am I in violation of the  
17      law? I don't think so. We need to fix the whole problem,  
18      not just point fingers. We need to look at the law how it  
19      applicable to the industry, who's responsible for the work  
20      performed. Am I responsible for the work of a licensed Smog  
21      Technician I hire because I own the shop and I may own a  
22      chain of shops and I cannot be in that facility 24/7 to  
23      oversee everything that is done by that technician? Is  
24      there some responsibility that comes to play on his part?  
25      You're damn right there is, because the State is the last

1 licensed him to perform in a certain standard. I can't  
2 watch all of that as a shop owner. So fraud to me is a very  
3 sensitive issue and I look at it from the standpoint that we  
4 better be damn accurate if we're saying 500 shop owners or  
5 700 or 1,000 shop owners are intentionally trying to defraud  
6 the State as it relates to health and clean air. I don't  
7 believe that's true. Are there mistakes? Yes. Do we need  
8 to fix it? Yes. Is this something that needs to be  
9 discussed? Yes. And I thank you for that.

10 CHAIR WEISSER: And thank you, Dennis, for your calm and  
11 dispassionate response. I think that you've identified one  
12 of the key steps that needs to be taken in terms of pursuing  
13 this which is to look more deeply into the analysis that  
14 Steve provided in terms of how far out of whack is  
15 performance of the program versus the expectations of the  
16 program and does that move you to believe that fraud is  
17 widespread. I think that's an initial hurdle that does need  
18 to be explored in some depth. Thank you. Jeffrey?

19 MEMBER WILLIAMS: I'd like to observe about your incentive  
20 system that it's saying anybody who has a test at a  
21 particular station that's a good performer should probably  
22 have a lower price and somebody who's having a test done at  
23 a not very good performing station should pay a higher  
24 price. Well, extend that philosophy one step further and  
25 what we might observe about a fraudulent station, one that's

1       been found by BAR enforcement to be clean-piping. No  
2       ambiguity, the technician has pled guilty, given up his  
3       license, something like that. Why isn't everybody else  
4       who's had a test done at that station suspect? Why is the  
5       HEP not having a variable in it that says your station for  
6       the last test was fraudulent, I think perhaps you need to  
7       have your car taken to test-only since the test-and-repair  
8       shop was fraudulent, or something like that. Presumably,  
9       that's a predictive variable in the tests that might be  
10      done. And that gets me to what's in the basic philosophy of  
11      HEP, which is, it's not about the station that's done the  
12      test or the car that's been tested, it's about some broad  
13      category of model. And that seems rather odd because we  
14      have a lot more information about whether a car should fail  
15      or not and we're not using it. Which gets me to - any  
16      performance measure that you have is really a way of  
17      investigating HEP. And I will conclude, for my tenth time,  
18      it is really essential to understand this program, to  
19      understand the HEP algorithm and I recommend, for the tenth  
20      time, that that be an essential item on our agenda.

21   MR. CARLISLE: Mr. Chairman, if I may. A while back, I invited  
22       ERG to make a presentation with regard to high-emitter  
23       profile since they were the creators, if you will. That was  
24       barred by the former administration, so I will speak with  
25       BAR and see if we can't get that point.

1 CHAIR WEISSER: Thank you, Rocky. Thank you, Jeffrey, for being  
2 a good soldier ten times. Keep on banging the drum. Eldon,  
3 any comment? No comment? What I'd like to do is open it up  
4 for some brief comments from members of the - I'm sorry,  
5 Roger?

6 MEMBER NICKY: If I didn't think this was important, I wouldn't  
7 have butted in. The clean-piping thing has been eating away  
8 at me for a while here and this will be brief. I think if  
9 you ask most anybody in here, what is clean-piping, they  
10 will say, well, they take the probe out of the car and they  
11 put it in one other than the one they're testing. Okay,  
12 that's not always the case because the car you're testing  
13 can fiddled with also. In other words, you can test the car  
14 in a different gear to get different results, maybe to pass  
15 when it wouldn't pass otherwise. You can super-heat it to  
16 get it to pass, which to me is the same as clean-piping.  
17 You're getting results out of the car you're testing other  
18 than what it would have been had it been tested properly.  
19 So there are ways to manipulate the test that might be  
20 construed as clean-piping that doesn't really mean I took  
21 the probe out of this car and put it in that one.

22 CHAIR WEISSER: Thank you. Okay. I understand that the noise  
23 buzzer is not functional and the cattle prod is not  
24 functional on our timing system, so we're going to rely on  
25 the lights, which are functional. I'm sorry, Jude, did you

1 have something you wanted -

2 MEMBER LAMARE: Are we webcasting?

3 CHAIR WEISSER: Are we webcasting, Rocky?

4 MR. CARLISLE: Yes, we are.

5 CHAIR WEISSER: So what I'd like to do is now invite members of  
6 the audience to share their thoughts regarding what they've  
7 heard and keep their eyes on the light and I'll remind you  
8 at the end with my noise-maker. We'll start at the far  
9 right and -

10 MEMBER LAMARE: We need to let people know about the email to  
11 send.

12 CHAIR WEISSER: Rocky, do you want to announce the email address  
13 that people who might be watching this on the webcast could  
14 send their comments to that we could pick up?

15 MR. CARLISLE: Yes, we can get email at [imreview@dca.ca.gov](mailto:imreview@dca.ca.gov).

16 CHAIR WEISSER: And when would you get those, Rocky? Are they -

17 MR. CARLISLE: Immediately.

18 CHAIR WEISSER: Right now. So we would be able to ask you to  
19 read those to us when you get them. Okay, Mr. Rice?

20 MR. RICE: Good morning. Bud Rice, Quality Tune-Up Shops. Just  
21 two quick comments. The first one is, Mr. Gould, you made a  
22 comment about 20 percent of the cars that pass are now  
23 failing, and I think there was some discussion about that  
24 cheating could be one of them or marginal repairs, I think,  
25 Chair, you said that. Another discussion we were kind of

1       having a little bit in the back was that the car could be  
2       broken between then and now as well. But part of the thing  
3       I've been saying a number of times as I've come up here is  
4       that you're also talking about customer's money. And at the  
5       point where a car passes, how do you keep going past that  
6       point when you're now spending a customer's money? If there  
7       isn't some methodology for that that says here how you play  
8       the game, Bud, and here's how your shop needs to operate,  
9       great. But since there isn't, that gets to be a little bit  
10      dicey. So the fact that you have some cars passing and then  
11      later failing, a lot of it is just due to the fact that you  
12      can only go so far from a shop's perspective.

13 CHAIR WEISSER: Otherwise, you're just milking - you could  
14       accused of just milking the customer.

15 MR. RICE: Yes, now I'm back here for a whole different reason.

16 CHAIR WEISSER: Right.

17 MR. RICE: The second comment is the equipment variations. Mr.  
18       Gould, you were saying that there's 20 percent and then  
19       there's 14 percent, so six percent could be attributed to  
20       clean-piping. There's a difference in variations just from  
21       equipment and if you have your car tested at one station,  
22       you go down the block and you have it tested at another  
23       station, there's variations in just how the equipment  
24       operates that could account for some of that. So, those are  
25       my two comments. Thank you very much.



1 CHAIR WEISSER: Thanks, Bud. Next, Randy?

2 MR. WARD: Mr. Chair and Members, Randall Ward, California

3 Emissions Testing Industries Association. Steve, I think  
4 that was excellent work and I look forward to continuing the  
5 investigation and working with the Committee within the  
6 context of the data that he's produced. I'll try to be  
7 equally as dispassionate as Dennis, but I think one of the  
8 items on which we can agree is the issue of technicians and  
9 the BAR has limited authority and in many cases that we're  
10 already familiar with, it's the owner that gets hit with the  
11 hammer and the technician that gets slapped on the wrist. I  
12 think that needs to be a part of any ranking of station  
13 performance, the recognition that the owner does not have  
14 total control over human behavior 100 percent of the time  
15 and we've already heard about the competition for  
16 technicians and, frankly, we see a lot of recycling of  
17 technicians in the industry. So I think Roger's aware of  
18 that, certainly Dennis is, and I suspect Bud as well. So I  
19 think that's particularly important.

20 CHAIR WEISSER: What do you mean by recycling of technicians?

21 MR. WARD: If you're a shop owner and you have a technician that  
22 is not performing up to your standards and you release that  
23 technician, he's simply going to be hired because there's a  
24 huge market for technicians and it's a problem finding  
25 capable technicians.

1 CHAIR WEISSER: You said, Randy, the station owner gets shot and  
2 the technician gets a slap on the wrist. There are  
3 mechanisms to punish technicians, but it's your viewpoint  
4 they're not being pursued or they're insufficient?

5 MR. WARD: I think that - in fact, I know, that the mechanisms  
6 for dealing with technicians are far less stringent from  
7 those available to deal with the owners and ultimately, I  
8 think we all agree. And clearly the law can be  
9 characterized as recognizing the owner maintains ultimately  
10 responsibility, but we also recognize that human behavior is  
11 just that and an owner isn't there 100 percent of the time  
12 and I don't think the BAR has the tools legally to enforce  
13 technician behavior as it might otherwise like.

14 CHAIR WEISSER: And that's clearly a part of the equation here.

15 MR. WARD: Absolutely.

16 CHAIR WEISSER: I mean, the technician is an agent of the owner.  
17 The owner, part of the responsibility as the owner is at  
18 some level maintaining control of the operations and if they  
19 can't obviously from direct visual, there are other things  
20 that they need to try to do. Gosh, I'm sorry I'm not going  
21 to be able to engage in this in the upcoming months and  
22 years. Do you have any further comments, Randy?

23 MR. WARD: Mr. Chairman, I'm equally as sorry. I've very much  
24 enjoyed your chairmanship and your contribution to the  
25 Committee and as a stakeholder representative as well.

1 CHAIR WEISSER: Thank you very much, Mr. Ward. Please, Chris?

2 MR. WALKER: Mr. Chair and Members of the Committee, Chris

3 Walker on behalf of the California Automotive Business  
4 Council. I apologize I came in late so I did not hear the  
5 totality of Steve's presentation. But I did hear a lot  
6 about mechanisms and how we can get stations to perform  
7 better and we're absolutely open to that discussion. We  
8 have been talking about that from Cal ABC's perspective for  
9 a while, looking at the system, how do we get the system to  
10 perform better. But I also want to caution that we've been  
11 talking only about one side of the equation today, which is  
12 the supply, if you look at a supply-demand dynamic, and the  
13 consumer is the one creating the demand. We're going to  
14 have to modify that demand at the same time we're addressing  
15 the supply side, because as long as consumers are not held  
16 responsible for the performance of their vehicles and  
17 they're just looking for a certificate to register their car  
18 one time every two years, you're going to have - I don't  
19 care what kind of system you put in place, you're going to  
20 have problems. So we're going to have to address both sides  
21 of the equation. Thank you.

22 CHAIR WEISSER: So, Chris, I'll be looking forward - or I should  
23 say the other Members of this Committee will be looking  
24 forward to hearing your suggestions in terms of how to align  
25 consumer behavior to the program goals better.

1 MR. WALKER: It's obviously a very sensitive and politically  
2 tricky way to do it, challenge it, but somehow consumers  
3 have to be brought into the -

4 CHAIR WEISSER: Yes, I mean, I'm really stupid on this stuff. I  
5 tossed this out as almost a joke years and years ago, but  
6 why aren't we, on newer cars, hooking up some sort of  
7 visible light that would go off outside indicating the car's  
8 emission control system was no longer performing up to par.  
9 I know that's a bad idea, right? It's stupid. But I'm not  
10 so sure it's that stupid.

11 MR. WALKER: Would they be kicked out of HOV lanes?

12 CHAIR WEISSER: I would say you trigger - it's the surface-to-  
13 surface instant car scrappage program. The light goes on  
14 and a missile is aimed at the car and it's no longer  
15 emitted. No, I mean, there's some external visible sign  
16 that would go off that would be difficult to tamper with. I  
17 know the automakers would go bonkers and the public would go  
18 bonkers to some sort of intrusion of big brother. Well, bad  
19 air is intruding in my lungs and I'm tired of it. I agree  
20 with you, Chris. The consumer needs to be put on the line.  
21 We all say we care about air, then let's move forward on it.  
22 Thank you, Chris, for listening to my last tirade as  
23 Chairman. Please.

24 MS. MEHL: Sherry Mehl, the new Chief of Bureau of Automotive  
25 Repair. I just want to say that I look forward to working

1 with you on this project. I think it's a worthwhile  
2 project. I don't want to comment on the particulars of this  
3 particular report because I haven't had the opportunity to  
4 study it and to look at it, but I have some concerns with  
5 some of the speculation that I've heard today. I'm one that  
6 likes to see the data, so I would want to make sure that  
7 we're putting together the data that verifies or validates  
8 the report as well, and I look forward to working with you.  
9 One of the things that we've identified at BAR is the  
10 consumer and the consumer's disconnect with what happens  
11 when their car isn't repaired correctly and the impact that  
12 that's having on the air in California. You see little kids  
13 and they're concerned about all these environmental issues,  
14 and yet they'll hop in the car with their parents and the  
15 smoke pouring out of the back and not say a word. And so  
16 it's a whole mindset, I think, that needs to take place. We  
17 have an RFP out for a public relations campaign that we'll  
18 be working on next year that will focus on the Breathe  
19 Easier aspect and what actually - why they should want to go  
20 and get their car fixed. I think it's a disconnect and I'm  
21 not sure how the environmental groups have missed that in  
22 terms of PR and I think that this is a whole new era and a  
23 whole new opportunity that people would want to say, wow, my  
24 car is out of tune, I've got to go in and get it fixed, or,  
25 yeah, I've got a Smog Check coming up, so that I can

1 validate that I'm not polluting the air. So it's a whole  
2 different mindset and I think it's one that's not been  
3 focused on. We look forward to being partners in clean air  
4 and working with you on this project.

5 CHAIR WEISSER: Sherry, I want to thank you very much for your  
6 comments. You know, your arrival on the scene has really  
7 been a breath of fresh air. The report Rocky just gave on  
8 the BAG meeting is indicative of the sorts of changes and  
9 openness that you've brought to the process and clearly your  
10 heart and your head are in the right place. I'm just really  
11 super glad you're here. I will mention that you may want to  
12 make some direct contacts with Linda Adams, who as secretary  
13 of Cal EPA has an environmental education program group of  
14 folks that are working. Jack O'Connell, the superintendent  
15 of Public Instruction, who has responsibility for their  
16 curricula that's required in the state, and issues  
17 associated with the use of environmental education as  
18 components of that curricula are important ways to education  
19 the sort of change in people's thinking that you're  
20 indicating. And you also may want to contact the Disney  
21 Company. They have an environmentality program with Jiminy  
22 Cricket as its spokesperson that is worldwide in scope and  
23 renowned in terms of their impact. I think the woman that  
24 you would contact their, her name is Chris McNamara. She's  
25 been behind that program from its inception. It's a

1       remarkable effort and they've done some really good things  
2       and are eager to work with the State in trying to identify  
3       other ways of influencing people's behavior consistent with  
4       the achievement of our environmental goals. Thank you.

5 MS. MEHL: Thank you.

6 CHAIR WEISSER: Okay. Mr. Peters?

7 MR. PETERS: Yes, hello, Mr. Chairman. I'm Charlie Peters,  
8       Clean Air Performance Professionals. I'm here representing  
9       motorists. I will just comment to a couple of things that  
10      I've heard and just throw out some possibility for  
11      consideration. I thought I heard when Mr. Gould was making  
12      his presentation a suggestion that tailpipe results should  
13      be the primary factor in evaluating the program and looking  
14      at the kinds of things that might make it work better and  
15      that's really interesting because to me what's coming out  
16      the tailpipe is certainly a factor in how much that car  
17      pollutes, but it disregards the very expensive, very  
18      sophisticated certification of the vehicle to start with,  
19      with how much gas mileage a car gets, how it stays clean  
20      over time, what the design of the engine is and a whole lot  
21      of other factors other than meeting a particular tailpipe  
22      test standard for the California program. I am of the  
23      belief that if you look at finding out if what's broken gets  
24      fixed, you'll find that the tailpipe emissions reduction  
25      will significantly improve and behavior will improve and

1 cars will stay repaired for longer periods of time and so I  
2 will suggest that adding to the good doctor's suggestion of  
3 looking at tailpipe, we also add the issue of looking at  
4 whether or not what's broken gets repaired. Incentives to  
5 make the results better, better based on somebody's opinion.  
6 And what does that mean, we could probably discuss that for  
7 the next ten years, but how about us going back and taking a  
8 look at disincentives, reasons why people don't do  
9 something. When you have a performance-based program that's  
10 based on consumer complaints, you beat up the guys that do  
11 it right, you make heroes out of people that do it wrong,  
12 you get some results that don't match. You get people  
13 setting policy where a preheat tube, it's okay to put it on  
14 before you run the test and it's also okay to fix what's  
15 broken afterwards. So you need to create some consistency  
16 there. Last issue, I'll cut it very shortly, the elephant  
17 in the room, it's very possible that the elephant in the  
18 room, the bad guy out there, can be the best performer in  
19 the whole program appropriately given the appropriate amount  
20 of oversight and care. Thank you.

21 CHAIR WEISSER: Thank you, Mr. Peters. Are there any other  
22 public comments? Anything to follow-up by any of the  
23 Committee Members?

24 --oOo--

25 CHAIR WEISSER: Hearing nothing, Rocky, I think it's time for us



1 to proceed to our next section of the agenda and we'll ask  
2 for comments or updates from the agencies, from BAR first.

3 Or do you guys want to come up holding hands? Alan?

4 MR. COPPAGE: Alan Coppage, Bureau of Automotive Repair.

5 Committee, Chair, we'll be brief this morning as you already  
6 heard from our new Chief, Sherry Mehl, regarding some of our  
7 outreach programs. I just want to make a couple of comments  
8 and few quick updates. The joint BAR/ARB response to your  
9 draft program, everyone has that, correct? You've all seen  
10 it, very good. The issue that's been on the table with a  
11 portion of Steve's comments, the Sierra - I saw it flash up  
12 here, the Sierra Research graphs that were up there, I  
13 wanted to touch bases briefly on that. I think I may have  
14 spoken about this last month. BAR has been actively  
15 pursuing repair effectiveness for more than a couple of  
16 years, specifically through the Clean Car Program, which  
17 many of you are aware of. More directly in response to this  
18 graph from Sierra Research - I think I hear it firing up,  
19 Mr. Carlisle's going to show it. It won't reference it  
20 specifically, more in category, that elements of the Clean  
21 Car Repair Effectiveness Program that specifically address  
22 repair effectiveness at the time of certification, we are  
23 currently taking elements of that program and are  
24 incorporating them into our complete quality assurance  
25 programs statewide to deal with the issue of repair

1 durability. And they are somewhat two separate issues. The  
2 repair durability has been directly reflected in these  
3 graphs in how long a car stays clean over time as it is  
4 picked up in the roadside inspection program. So I just  
5 wanted to update you briefly on that, that BAR is already  
6 taking steps, as some of the Members, Mr. Nickey and Mr.  
7 Hotchkiss, as well as Mr. DeCota, the inspections are done  
8 by individuals on individual cars one at a time. We can  
9 look at statistics and, yes, statistics being what they are,  
10 I'm not a statistician, but when you look at a massive  
11 number, you do get some consistency with those numbers.  
12 However, we do like to spend time in Smog Check stations  
13 talking to individuals, owners, technicians and, to the  
14 greatest extent we can, consumers who may be onsite about  
15 the whole experience and how to dovetail what we need to get  
16 done in the clean air arena with the consumer protection  
17 that we're also charged to have over the consumers. So  
18 that's just a quick update on our efforts. The low-pressure  
19 fuel evap draft regulations, everybody has seen those as  
20 well, correct? Very good. If you haven't, we'll get those  
21 to you. Rocky mentioned the last BAG meeting, I can give  
22 you a quick update. The next BAG meeting is scheduled for  
23 January 10<sup>th</sup>, 2007, here in Sacramento, so you can mark it  
24 on your calendars to be ready for that. A couple of new  
25 positions in BAR have been filled. Some of you may know

1 Deputy Chief for CAP and Admin, Sylvia Ramos, has been  
2 brought over. She's now with the Bureau of Automotive  
3 Repair. As well as Mike Vanderlaan, who many of you - is  
4 very well known to you, has moved from the Engineering  
5 Deputy Chief position to the Deputy Chief of Field  
6 Operations and Enforcement. So we've played a little  
7 musical chairs at BAR and we have some new people in some  
8 new positions, looking forward to great things out of a full  
9 staff working under Sherry. And lastly, I wanted to speak  
10 briefly on something that's come up over the years. A  
11 letter from BAR is being drafted to go out to all motorcycle  
12 dealers that in no uncertain terms less than no that those  
13 vehicles are certified for sale and use in the state of  
14 California as they were configured and any modifications to  
15 those emission control components on those vehicles is  
16 illegal. So this has been an issue again, why don't we test  
17 motorcycles, we've got all these visible signs of tampering,  
18 so we're taking an active role, as well, in that arena to at  
19 least put these stations on notice, the motorcycle dealers  
20 on notice that this is indeed a violation. So that should  
21 come as good news, we're going in the right direction with  
22 that. And that's pretty much it. Sherry spoke briefly  
23 about the RFP for outreach, so that's going to be a big  
24 issue for BAR in educating everybody - consumers, as well as  
25 motorists and licensees about the need for clean air. And

1       that's my update, I'll take your questions.

2 CHAIR WEISSER: Thank you. Any questions of Alan? Thanks,  
3 Alan.

4 MR. COPPAGE: Very good, thank you.

5                       --oOo--

6 CHAIR WEISSER: James? Speaking of recycled people.

7 MR. GOLDSTENE: Good morning, James Goldstene, California Air  
8 Resources Board. Several items to bring you up to date on.  
9 The first item I'd like to let the Committee know about is  
10 that on November 14<sup>th</sup>, the Air Resources Board held its  
11 second workshop on the State Implementation Plan goals for  
12 both PM and criteria pollutants. That was a well-attended  
13 workshop over at the Secretary of State's building. As a  
14 follow to what Alan just said on their letter to motorcycle  
15 dealers, we did have a representative there from the  
16 California Motorcycle Dealers Association who - he and I had  
17 an exchange about the importance of making sure that  
18 motorcycles remain compliant. The second item I wanted to  
19 raise is actually relating to Item 7 on today's agenda,  
20 which has been postponed, partly in consultation with the  
21 Chairman of IMRC, Mr. Weisser, because this is relating to  
22 the remote sensing report because we decided jointly that we  
23 should make sure that before the report is released for  
24 discussion that it's sent out for peer review and public  
25 comment and that should happen in early next year. We'll

1 have the report finalized and we are now in the process of  
2 selecting peer reviewers and we'll make sure that the  
3 Committee and Committee staff are part of that process.

4 CHAIR WEISSER: I appreciate that. I think on issues as  
5 important and controversial as remote sensing that we need  
6 to approach it in a bullet-proof fashion - you need to  
7 approach it in a bullet-proof fashion because the bullets  
8 will fly. Just nature of the stakeholders as such. You  
9 guys are right in the middle of it and I think it's smart  
10 for you to make sure that stakeholders have a copy of the  
11 report, the report is peer-reviewed, period. I don't think  
12 it's necessarily a bad idea to release the report as a draft  
13 while you're on a path toward peer review.

14 MR. GOLDSTENE: That's our plan.

15 CHAIR WEISSER: Okay.

16 MR. GOLDSTENE: Yes.

17 CHAIR WEISSER: So you will have it released prior to the peer  
18 review taking place.

19 MR. GOLDSTENE: Simultaneously.

20 CHAIR WEISSER: Very good.

21 MR. GOLDSTENE: Right. So we appreciate your thoughts on that,  
22 Mr. Chairman. ARB is working closely with BAR on the  
23 implementation of AB1817. That was the bill last year to  
24 add smoking as a cause for fail to the Smog Check Program.  
25 We went out last month, our enforcement folks, with their

1 diagnostic equipment that they use in the field on diesel,  
2 they went out to BAR and did a demonstration for BAR and  
3 just helping develop - figure out what works and what  
4 doesn't work in terms of how simple or complicated this test  
5 would need to be as an addition to the Smog Check protocol.  
6 We are meeting regularly with BAR and the new Chief to make  
7 sure we're moving forward, particularly on the Sierra work,  
8 on the program eval. We're meeting actually Friday to  
9 continue to move forward. Our hope is to have regular or  
10 periodic updates to the Committee similar to what Mr. Heirig  
11 from Sierra presented last month, so as we come up with a  
12 new module, we will come and present it to the Committee as  
13 opposed to waiting for years to finalize something and then  
14 present it. So I think that will help us all move forward  
15 as we work to solve some of the issues that Dr. Gould has  
16 highlighted today. The last item that I was going to speak  
17 about was the response to the IMRC report that BAR and ARB  
18 submitted jointly. I didn't know if you had any questions  
19 about that. And then lastly, I wanted to say that it has  
20 been a pleasure working with Chairman Weisser both here and  
21 at the Clean Air dialogue and other venues and we appreciate  
22 your wisdom, guidance, and support. And speaking on behalf  
23 of ARB, you'll be sorely missed. But I know your fiancé  
24 will do an excellent job as chair, so thank you.

25 CHAIR WEISSER: James, thank you very much. We have - is Rocky

1       here? Are there any comments or questions? Yes?

2 MEMBER NICKEY: I have a question for James Goldstene, it has to  
3 do with his response to the draft. Is the Air Resources  
4 Board in a position to say whether the referral of 36  
5 percent of the cars to test-only is either a plus or a minus  
6 to the program?

7 CHAIR WEISSER: Roger, I'm going to ask that we not go into the  
8 report until we go into the report.

9 MEMBER NICKEY: Okay.

10 CHAIR WEISSER: But if you have - that's a good question, but I  
11 also don't think we should dive into the report right now.  
12 Other than the comment that James and Alan put forward about  
13 did we receive the letter from ARB/BAR, the joint letter.  
14 We have, we've looked at it. I will tell you from this  
15 Member's perspective, it was great seeing both agencies  
16 names on the same letter in a letter that actually was clear  
17 and understandable, that made points directly, raised  
18 questions assertively and constructively, so that's  
19 terrific. We'll rip it apart when we get into that section,  
20 but I'm really appreciative of it. Because we're going to  
21 spend a considerable amount of time on the report and, in  
22 fact - anything further from James?

23 MEMBER NICKEY: Is the operative word rip?

24 CHAIR WEISSER: We get to rip back. Rocky, it's ten to 11:00,  
25 we have an 11:30 lunch scheduled, is that correct?

1 MR. CARLISLE: Yes, sir.

2 CHAIR WEISSER: What's your suggestion in terms of the next  
3 order of business? Should we begin to go through the draft  
4 IMRC report?

5 MR. CARLISLE: I think it would be time well-spent, yes, the 40  
6 minutes.

7 CHAIR WEISSER: Excuse me, Mr. Peters, did you have something  
8 you wanted to raise?

9 MR. PETERS: Just kind of a part of order, Mr. Chairman.  
10 Charlie Peters, Clean Air Performance Professionals. We  
11 just had significant on the agenda by the Bureau of  
12 Automotive Repair and the Air Resources Board. Is there  
13 going to any opportunities for comments as normally would be  
14 the procedure?

15 CHAIR WEISSER: Comments on what subjects? You mean the  
16 comments that were made by the updates by BAR and ARB?

17 MR. PETERS: Exactly, sir.

18 CHAIR WEISSER: Well, sure, we can do that. Would you care to  
19 make a comment, Mr. Peters?

20 MR. PETERS: I would.

21 CHAIR WEISSER: Please.

22 MR. PETERS: Thank you. One of the things that - Charlie  
23 Peters, Clean Air Performance Professionals. I'd like to  
24 bring up another side issue and wonder - I wasn't here when  
25 you first started the meeting. It appears as though there's



1 a little difference in format here and a little difference  
2 with some attendees or an attendee today that could be  
3 important and there could be an important reason why. Mr.  
4 Chairman, I was wondering why we have the Highway Patrol  
5 here today and if there's any special reason that we should  
6 be aware of in regards to that.

7 CHAIR WEISSER: I'll make no comment on that, Mr. Peters.

8 MR. PETERS: That's a very interesting response, Mr. Chairman.

9 Next issue, remote sensors. The review of the remote  
10 sensors, you're absolutely right, sir. I certainly commend  
11 your - that there's a lot of interest in this subject matter  
12 and the program in California required immediate  
13 implementation of remote-sensing technology when the first  
14 legislation was passed in 1994. Urgent legislation and  
15 immediate implementation and it's still not been  
16 implemented. A number of pieces of legislation have been  
17 passed requiring its implementation and we're still not  
18 there. And in the meantime, we've done lots and lots of  
19 evaluation of remote sensing in California, all around the  
20 world, with very significant stakeholders involved,  
21 universities and so on and so forth, World Bank, while we've  
22 never, ever found out if what's broken on the car ever gets  
23 fixed, which is critically important both to any remote  
24 sensing program, as well as to the current program, and I  
25 would suggest that we might consider the possibility of

1 taking a more comprehensive look at the specifics of the  
2 test-and-repair process and making it work better by finding  
3 out if what's broken gets fixed and using that as a basis  
4 for improvement and performance and quality. Thank you, Mr.  
5 Chairman.

6 CHAIR WEISSER: Thank you, Mr. Peters. It is my understand that  
7 that is part of the charge that Sierra Research is doing.  
8 Am I off on that? James has escaped. Oh, there he is  
9 ducking behind Alan. I couldn't see you, James. Isn't  
10 Sierra trying to look at some of the issues associated with  
11 durability repairs?

12 MR. GOLDSTENE: It is one of the items we're discussing with  
13 Sierra and BAR about how to proceed in terms of evaluating  
14 that, yes.

15 CHAIR WEISSER: Okay. I think that Mr. Peters' point is well-  
16 taken, has been well-taken for the years. Thank you. Are  
17 there any other public comments? Mr. Peters, do you have  
18 something additional to say?

19 MR. PETERS: Thank you, Mr. Chairman. Charlie Peters, Clean Air  
20 Performance Professionals. Just a short response to that.  
21 Sierra Research has been a significant player in this  
22 process as far back as I can remember and was the one who  
23 created the report for the original IM Review Committee,  
24 etcetera, and they've been a significant player on a  
25 national/international basis and so I think their view of

1       how this should work has been known to pretty much every  
2       professional in this industry for a very long time and I  
3       don't know that that's getting the kind of light of day that  
4       it maybe deserves and I would appreciate any additional  
5       light that can be put on that and improve the performance  
6       from that direction. Thank you.

7 CHAIR WEISSER: Thank you, Mr. Peters. Any further public  
8       comments? Okay.

9                               --oOo--

10 CHAIR WEISSER: Well, we now have about 35 minutes before we're  
11       going to take our lunch break and perhaps we could utilize  
12       that by asking our Executive Officer to set up our  
13       discussion on the report. Mr. Carlisle?

14 MR. CARLISLE: Thank you, Mr. Chairman. I think everybody's  
15       read this ad nauseum by now, I'm sure, but there were a few  
16       minor edits since the last meeting. One thing, right on the  
17       title page, it's dated September 29<sup>th</sup>. Because it was dated  
18       September 29<sup>th</sup> and Mr. Pearman served until November 1<sup>st</sup>,  
19       I've left his name on this report, in case anybody questions  
20       that.

21 CHAIR WEISSER: Rocky, it is my belief that the report would be  
22       issued when this Committee approves the report and,  
23       therefore, Mr. Pearman's name should not be on the report,  
24       but instead the existing Committee membership must appear.

25 MR. CARLISLE: I'll make that -

1 CHAIR WEISSER: I regret that because Mr. Pearman made such a  
2 great contribution to the development of this report, but I  
3 think it's the Committee at the time of its issuance. I'm  
4 sorry, Dennis, you're pointing out - I think we've got to  
5 get the list to reflect the current membership of the  
6 report. Perhaps in our cover letter, we need to acknowledge  
7 Pearman the fact that - well, I don't know, I guess it's not  
8 something that's suitable. I, once again, feel obliged to  
9 mention my disappointment that Mr. Pearman was not  
10 reappointed.

11 MR. CARLISLE: Okay. My thought was with regard to reviewing  
12 what edits we've done in the report, if we look at Part Two,  
13 specifically Page 2-13, we edited the topic of the  
14 comparison to test-only, test-and-repair, and Gold Shield.  
15 Basically, the third paragraph down which starts "It is our  
16 opinion that the original decision to direct 36 percent,"  
17 we've basically placed that into the future instead of  
18 looking at the decision that was made in the past.

19 CHAIR WEISSER: Excuse me, where -

20 MR. CARLISLE: Page 2-13.

21 CHAIR WEISSER: - in the second paragraph?

22 MR. CARLISLE: Third paragraph. Well, the paragraph starts with  
23 "Providing an adequate response," but -

24 CHAIR WEISSER: Okay, the last sentence in that paragraph, I  
25 see.

1 MR. CARLISLE: Right, next to the last, anyway. And that's been  
2 edited just a little bit to put it into the future as  
3 opposed to arguing with what decision was made 12 years ago  
4 back in 1994. So we've just stated essentially that it  
5 needs to be reevaluated. Other than that, that portion of  
6 the report stays intact.

7 CHAIR WEISSER: Could you hold on?

8 MR. CARLISLE: Yes.

9 CHAIR WEISSER: I think I want to talk about this specific  
10 subject and ask Jude for any thoughts she might have in  
11 regard to the wording.

12 MEMBER LAMARE: Well, Mr. Chairman, I had quite a bit more  
13 language I would have added here acknowledging that we have  
14 been unable to substantiate that the 36 percent level of  
15 direction has added appreciably to the air quality  
16 performance of the Smog Check Program. And also that our  
17 study suggests that dealers have poorer performance in Smog  
18 Check when compared with other types of Smog Check stations,  
19 but I'm satisfied with Rocky's rewrite if other people are.  
20 I think we've had quite a lot of discussion about the  
21 direction of vehicles to test-only and what has been most  
22 striking is that we're not finding a pattern of evidence  
23 that supports an air quality benefit to the higher level of  
24 direction. We did have some letters and maybe we need to  
25 take public testimony on this, because we did have some

1 letters from folks finding disagreement with this section of  
2 the report.

3 CHAIR WEISSER: Yes, I'm sure we'll get -

4 MEMBER LAMARE: So, I'll leave it at that.

5 CHAIR WEISSER: Okay. And we will, of course, take public  
6 testimony to both the rewrite and any overall comments that  
7 people have to offer in that regard. Dennis?

8 MEMBER DECOTA: I'm trying not to get too passionate about this  
9 issue. I have a tendency to like the language as it's  
10 written there, Rocky, but you say originally directed 36  
11 percent. I believe we originally directed 15 percent.

12 MR. CARLISLE: That's correct. It was the study done by ERG in  
13 '94 that suggested we needed 36 percent to attain the air  
14 quality goals, not the statute. 44015 of the Health and  
15 Safety Code mandates that 15 percent be directed to test-  
16 only as a starter.

17 MEMBER DECOTA: So it is an accurate statement.

18 MR. CARLISLE: Yes.

19 CHAIR WEISSER: What is an accurate statement? The word  
20 "original" or the -

21 MEMBER DECOTA: The word "original."

22 MR. CARLISLE: The original 36 percent as stated in the ERG  
23 report.

24 MEMBER DECOTA: Qualified by the 12-year explanation, he's  
25 correct.

1 CHAIR WEISSER: Okay.

2 MEMBER LAMARE: I think we could be happy taking out the word  
3 "original."

4 CHAIR WEISSER: Yes, I would just make it clearer by just saying  
5 the decision on 36 percent. Roger?

6 MEMBER NICKEY: I just have a problem with the wording of  
7 "revisited" and "questionable" regarding the 36 percent.  
8 Sierra Research, as far as I know, is researching this  
9 subject and hasn't come up with a conclusion yet. How can  
10 we draw a conclusion that the methodology is questionable or  
11 needs to be revisited without the completion of the report?  
12 I just don't understand how that can be supported. Why are  
13 we using that kind of wording and jumping to conclusion more  
14 or less without the completion of the report?

15 CHAIR WEISSER: Let me try to respond to that as best I can.

16 Over the years, we've received a lot of analysis from  
17 external stakeholders and experts, as well as Members of  
18 this Committee, in particular, Jeffrey Williams. I think  
19 it's the information that we've received from both the  
20 outside and, in particular, Dr. Williams that has driven us  
21 to say that this practice embodied in both statute and the  
22 policies of the agency deserves to be reopened and re-looked  
23 at. It's not conclusionary, it's saying that there seems to  
24 be some questions here that need to be further explored.  
25 And I think that's the intent of this recommendation.

1 MEMBER NICKEY: Well, it's just that the wording sometimes has a  
2 tendency to be looked at and then taken as fact, whether it  
3 was meant to be that at all.

4 CHAIR WEISSER: Well, let's look at the specific wording that  
5 Rocky's come up with.

6 MEMBER KRACOV: Where's the word questionable? Is that in there  
7 right now?

8 MEMBER NICKEY: It's in the summary.

9 MEMBER KRACOV: The summary?

10 MEMBER NICKEY: It's on Page 1-2. Down at the bottom it says,  
11 "The original decision to direct 36 percent of the vehicle  
12 fleet to test-only is questionable. Fundamental rationale  
13 on the basis of the percentage of vehicles directed to test-  
14 only require reevaluation." Based on what?

15 CHAIR WEISSER: Repeat again where it is?

16 MEMBER NICKEY: That's on -

17 CHAIR WEISSER: On 1-2?

18 MEMBER NICKEY: Yes, I believe that's the executive summary.

19 MR. CARLISLE: Mr. Chairman, that needs to be edited to coincide  
20 with Part Two.

21 CHAIR WEISSER: Yes, I think Roger is exactly right.

22 MR. CARLISLE: Yes, I agree.

23 CHAIR WEISSER: That needs to be changed to be consistent with  
24 the wording on Page 2-13.

25 MEMBER NICKEY: Because as soon as we say "questionable," then



1       everybody thinks the whole darn program is questionable and  
2       it doesn't have any validity.

3 CHAIR WEISSER: I agree with your statement.

4 MEMBER NICKEY: So words sometimes creep in.

5 CHAIR WEISSER: We need to be very careful and I'm glad you  
6       caught that. Thank you. Jude?

7 MEMBER LAMARE: Jude Lamare. I just want to return to my  
8       statement earlier that I think that Dr. Williams' research  
9       in a number of different studies, all of which are on our  
10      website and have been presented over the last two years,  
11      have demonstrated in a variety of ways that we are unable to  
12      detect any air quality benefit from the level of direction  
13      to test-only that we are currently seeing. So in test after  
14      test, we are unable, when controlling for age of vehicle,  
15      model, make, controlling for the place of the test, show  
16      that there is a difference between test-only failure rate  
17      and test-and-repair failure rate except in the case of  
18      dealers who are showing a higher pass rate given the same  
19      vehicle parameters as compared to test-only and test-and-  
20      repair. So I am satisfied that Dr. Williams' research  
21      clearly demonstrates that there is no appreciable difference  
22      when you're controlling for vehicle age, make, model, and  
23      other variables in the failure rate, so if there's no  
24      difference, then where is the air quality benefit from  
25      directing 36 percent of the vehicles to test-only compared

1 to directing 15 percent, the worst 15 percent, to test-only?  
2 As I recall, the purpose of direction was to get vehicles  
3 that are likely to fail going to test-only. There are some  
4 nuances here that have been pointed out to us that some  
5 vehicles that are likely to fail just don't show up at all.  
6 Understood. But just sending more vehicles to test-only  
7 when they're not likely to fail doesn't improve the air  
8 quality benefit as far as I can tell. And we've been over  
9 this for two years, so I'm very, very comfortable saying - I  
10 would have been comfortable with stronger language, which  
11 I've read to you and I'm willing to bypass, but I don't  
12 think it would be fair to say that this Committee has not  
13 found any reason to question or ask for reevaluation of the  
14 36 percent.

15 CHAIR WEISSER: Roger?

16 MEMBER NICKEY: Well, we just want to remember that the 36  
17 percent really turns out to be 26 percent because that's all  
18 that shows up. But the real issue with clean air, I think -

19 CHAIR WEISSER: I just want to encourage us not to get involved  
20 once again in the 36 versus 50 versus 26. We've done that.

21 MEMBER NICKEY: Sorry. Then the percentages I would like to  
22 point out are the 20 percent of the vehicles that pass the  
23 initial smog inspection or fail in the same test the  
24 following day and the 40 percent of the vehicles that were  
25 repaired and fail the test the following day, I believe

1       those have more impact on air quality than anything else,  
2       whether it's referred vehicles or tested vehicles or fail  
3       rate or what have you. It's the fact that we test these  
4       vehicles, they fail the next day, we fix them, they fail the  
5       next day. I think that's a huge issue.

6 CHAIR WEISSER: My sense - and I'm sorry, I missed your last  
7       comment, so I'm going to take a deep breath.

8 MEMBER LAMARE: Roger, that's a very good point. I think,  
9       though, we need to be clear that the roadside test that Mr.  
10      Heirig was describing to us last time wasn't the next day.  
11      It was over a six-month period. Cars that failed or cars  
12      that passed re-failed or failed within six months of Smog  
13      Check, which is enough for us to be very, very concerned,  
14      but it isn't the next day. So -

15 MEMBER NICKEY: But that's what Sierra Research concluded.

16 MEMBER LAMARE: No, they concluded that within six months.

17 CHAIR WEISSER: Excuse me, James. Do you have something  
18      directly on-point or is this responding to the willful  
19      destruction of State property by one of our audience  
20      members?

21 MR. GOLDSTONE: I'm glad the CHP is here. I just wanted to make  
22      a few points for consideration. One is, I want to bring to  
23      the Committee's attention that the chart that Rocky  
24      displayed earlier was showing cars from the 1976 to '95 age  
25      group. I just want to make sure that we're aware of that.

1 CHAIR WEISSER: We understand that.

2 MR. GOLDSTENE: I also want to reiterate the fact that Sierra is  
3 looking at this. They're even looking at the work that  
4 Rocky and Dr. Williams did with regard to the D-Sample, but  
5 we're trying to get a broader look at this and to also ask  
6 ourselves why has there been a convergence on these lines.  
7 Could it be the three-fold growth in the number of test-only  
8 stations and not enough enforcement mechanisms in place?  
9 Are there other issues that we should be using the data from  
10 Sierra, what they found, that could be playing into this?  
11 In other words, looking at the data is a little bit of  
12 tunnel vision only so far and we have looked at the broader  
13 or asked the broader questions and I would just suggest,  
14 maybe not for this report, but to at least let the Committee  
15 know that we're going to be asking some of those broader  
16 questions to make sure we're capturing why this is going on.

17 CHAIR WEISSER: So this is somewhat indicative of BAR and ARB  
18 both saying that we need to kind of look at this further to  
19 understand what's going on -

20 MR. GOLDSTENE: Absolutely.

21 CHAIR WEISSER: - and understand if the past rationale for the  
22 direction of vehicles still makes sense in our mind.

23 MR. GOLDSTENE: Absolutely.

24 CHAIR WEISSER: Thank you.

25 MR. GOLDSTENE: But we want to make sure that we frame the

1 questions properly.

2 CHAIR WEISSER: And you can see how important that is just in  
3 this discussion.

4 MR. GOLDSTENE: Absolutely.

5 CHAIR WEISSER: Okay. So I guess, now I'm just going to speak  
6 as what I am, which is a layman, which is saying, there's  
7 enough going around and we've heard enough going around that  
8 a more formal, intense analysis of what's occurring needs to  
9 be undertaken because the existing rationale does not  
10 necessarily look like it fits anymore. We need to find out  
11 what's going on. Any other comments from Committee Members  
12 on this item? Yes, Jeffrey?

13 MEMBER WILLIAMS: I just want us to be clear that some of this  
14 discussion is that the executive summary didn't change the  
15 words that's now in the report and that if it is made with  
16 removing the word "original," I don't think any of us can  
17 disagree with the remaining statement, except perhaps say  
18 that this decision will be revisited because it is being  
19 revisited.

20 CHAIR WEISSER: My belief is keep the "should be."

21 MEMBER WILLIAMS: The "should be."

22 CHAIR WEISSER: And we're going to get that first part, the  
23 first section, lined up with the second section.

24 MR. CARLISLE: Yes, sir.

25 MEMBER WILLIAMS: And I don't see how anybody can argue with the

1 remaining sentence, then.

2 CHAIR WEISSER: I have a hard time understanding that, too, but  
3 I'm sure I'll be educated as to why that shouldn't be by  
4 some folks. Any other comments? Rocky, do you have any  
5 comments on this discussion at all?

6 MR. CARLISLE: No, I think the edits make sense.

7 CHAIR WEISSER: Thank you. Let's take comments from the public.  
8 We'll go from the front to the back. Mr. Peters?

9 MR. PETERS: Charlie Peters, Clean Air Performance Professionals  
10 here today representing motorists. This has certainly been  
11 a subject of much discussion over time and I salute Ms.  
12 Lamare for her saying that this maybe looks like these two  
13 things might be equal, but my own personal view based upon  
14 what I've seen over time is that test-and-repair is more  
15 than twice as effective as test-only based on data supported  
16 by EPA as being the most accurate, the most effective in the  
17 country, based upon a Mr. Dennis DeCota letter written some  
18 time back, it's not current information, but every bit of  
19 data that I've seen that actually apples and apples, oranges  
20 and oranges, has demonstrated to me from my perspective that  
21 test-and-repair is twice as effective as test-only to start  
22 with. And it is of my - go ahead, sir.

23 CHAIR WEISSER: What do you mean by effective, Charlie?

24 MR. PETERS: As an example, sir, earlier on when the Federal EPA  
25 contracted with Colorado to determine tamper rates,

1 California had less than half of the tamper rate roadside  
2 random that Arizona did on test day in test bay. More than  
3 twice as much tampered there as here, and the rating at that  
4 time were rating their program twice as effective as ours.  
5 Another example was we had a contractor that evaluating  
6 California Smog Check Program for the IM Review Committee  
7 that looked at failure rate for cars that had failed the  
8 test in a previous cycle and been repaired and passed and  
9 got an off-cycle test and the Arizona vehicles were failing  
10 twice as often as the California cars at that time -

11 CHAIR WEISSER: So by effectiveness, you mean failure rate.

12 Could you suspend the light for moment, Janet? You're  
13 making reference to failure rates as your yardstick for  
14 effectiveness; is that right? Yes or no?

15 MR. PETERS: No.

16 CHAIR WEISSER: Okay. Please proceed. Back to the light.

17 MR. PETERS: So based upon various data from various locations  
18 over time, my own personal perception is different than what  
19 the position that the State has taken on this issue. It  
20 doesn't mean I'm wrong, but it means that I certainly have a  
21 different opinion and would happy to demonstrate that and  
22 discuss that with anybody who would be interested, because I  
23 think that's important to the people in California. So I  
24 appreciate the fact that you allow me to get up and make  
25 this comment and respond to what you're considering here

1       because I think it's very important and I thank you for  
2       allowing me to talk.

3 CHAIR WEISSER: Thank you, Mr. Peters. Other comment? Mr.  
4       Ward?

5 MR. WARD: Mr. Chairman and Members. Randall Ward, California  
6       Emissions Testing Industries Association. I guess the point  
7       I'd like to make is along the lines of a point that I've  
8       made in the past is that the inferential treatment of an  
9       issue as sensitive economically and to the health-based side  
10      of this program needs to be dealt with in a very sensitive  
11      manner. And I think Dr. Williams - I ask him during his  
12      presentations - would agree that his work certainly isn't  
13      conclusive. It was raising the issue for purposes of  
14      discussion. I look at Sample-D and I think - and this is no  
15      criticism to Dr. Williams. In fact, I certainly laud his  
16      efforts as the Committee does. I think he's approached it  
17      with intellectual integrity. However, statistically, if you  
18      look at Sample-D, the sample size of the Gold Shields that  
19      were tested there are very, very small and I think Dr.  
20      Williams would attest to that relative to the number of  
21      test-only stations. But aside from that, I've got a bad  
22      spleen here and you may be removing the kidney and not  
23      focusing on the spleen. My concern is - we've looked at -  
24      we were talking about whether the efficacy of the 36  
25      percent, the efficacy of the emissions reductions associated



1 with test-only and there's another side to the equation.  
2 You've had one side presented to you. You haven't had the  
3 other side, so to raise the issue in a major way without  
4 having the other side, I think, is intellectually dishonest.  
5 And the point I would make in that regard is you have Gold  
6 Shield stations, not one Gold Shield station is subject to a  
7 retest evaluation by the BAR. In other words, those cars,  
8 if they're repaired by Gold Shield, use State money, not one  
9 of those cars is subject to a referee retest. We have no  
10 idea on the Sierra Research study how many of those were  
11 Gold-Shield-repaired vehicles using State money. I think  
12 that's pretty important. Now I do know from numbers that I  
13 ran using the BAR data that almost ten percent of the time a  
14 car that went to Gold Shield after failing at test-only and  
15 was repaired at Gold Shield decided to get a free retest,  
16 not spend money at the Gold Shield station for the retest,  
17 go back to their test-only, and almost ten percent of the  
18 time they failed the test. Now, I'm just saying this is  
19 scratching the surface. I raised it as an issue that I  
20 thought was relatively important to looking at the broader  
21 context of this program. It may be that test-only is the  
22 bar and is keeping the bar that high. The Gold Shields  
23 stations, by contract, have to maintain a failure rate that  
24 meets the average obligation to the failure rate of the  
25 test-onlys in their area. So I think the point I'm trying

1 to make here is there is a whole other side to this equation  
2 on the repair-based side and I would say within the context  
3 of your recommendation, that it shouldn't just be the 36  
4 percent relative to what test-only is producing in terms of  
5 failures, it ought to be there's a whole bunch of things  
6 that we need to be asking relative to that 36 percent.

7 CHAIR WEISSER: Thank you, Mr. Ward.

8 MR. WARD: Thank you.

9 CHAIR WEISSER: Mr. Rice?

10 MR. RICE: Bud Rice, Quality Tune-Up Shops. Just as a quick  
11 point of clarification for me, if I could. I did send in a  
12 letter and we did have discussion on that and my  
13 understanding was that changes were made to the document -

14 CHAIR WEISSER: We're going to be going through the full  
15 document today, but do you have a specific question on that  
16 and your document related to this item of the report?

17 MR. RICE: Well, it's more of a question - I guess the answer is  
18 yes.

19 CHAIR WEISSER: Okay.

20 MR. RICE: When I look at this today and I see the draft changes  
21 and they could be in the summary statement, I've got to be  
22 honest with you. I'm having a hard time figuring out where  
23 the pieces go together.

24 CHAIR WEISSER: Yes.

25 MR. RICE: And I guess what I'm asking is, isn't it more user

1       friendly if you were to put the proposed changes -

2 CHAIR WEISSER: Kind of cross-out and underline.

3 MR. RICE: Exactly, yes, that would be helpful.

4 CHAIR WEISSER: I would urge the staff and for the Committee in  
5 the future to insist upon that approach in drafts so we can  
6 track things. I think that's an outstanding suggestion. In  
7 fact, I think we need to string up our Executive Officer for  
8 his failure to do that. And we'll do that at lunch in six  
9 minutes.

10 MR. CARLISLE: Okay.

11 CHAIR WEISSER: There will be a public trial beforehand. Okay,  
12 Roger?

13 MEMBER NICKEY: Since we have six minutes, I just want to  
14 clarify a term. Can I do that?

15 CHAIR WEISSER: You betcha.

16 MEMBER NICKEY: Okay. I want to clarify the term "tamper,"  
17 because that's gotten thrown around a certain amount here in  
18 the last few minutes. I don't know if anybody in here is  
19 familiar with a warm air heat tube. Okay, we've got an  
20 aluminum foil tube that goes from the intake down to the  
21 exhaust manifold, which supplies warm air to the car during  
22 warm-up. My guy raises the hood, he looks there, it's gone.  
23 At that point, he has to determine whether the customer took  
24 it off and threw it away, whether it fell off or whether it  
25 was never there in the first place. If he enters a fail,

1       then the machine will record a fail and then there's nothing  
2       missing, modified or disconnected, so that one's actually  
3       eligible for CAP. But, if he looks at it and says, well,  
4       it's missing, the machine will record that as a tamper. If  
5       he records it as disconnected, that's recorded as a tamper.  
6       Same condition, it just depends on how it's entered into the  
7       machine whether it becomes a tamper or a fail. A tamper  
8       will disqualify you for CAP and will be recorded as a  
9       tamper. If it's just a straight fail, the customer is still  
10      eligible for CAP. So some of this stuff we have to go a  
11      couple of levels down to see how it was recorded because  
12      just because it's gone doesn't mean the customer tampered  
13      with it. It might have just fell off, it might have been  
14      left off, we don't know.

15 CHAIR WEISSER: That was very clear, Roger. Good example.

16 MEMBER NICKEY: I hope it was clear because I'm confused now.

17 CHAIR WEISSER: T here's one other point I'd like to raise and  
18      maybe folks have some comments. It relates to the comment  
19      you made, Jude, regarding auto dealers having - from the  
20      data that we've seen, particularly from Jeffrey's comments -  
21      a lower fail rate. I'm just wondering again, I think I've  
22      raised this before, how many of those cars get tested after  
23      they've gone through their maintenance cycles and that may  
24      attribute a lower fail rate. I'll just put it out there.  
25      Jeffrey, did you have something to say on point? I notice

1 we have another member of the public that has something to  
2 offer perhaps in reparations for his destruction willfully  
3 of State property. Jeffrey?

4 MEMBER WILLIAMS: I just wanted to observe on this issue of  
5 comparing who's doing the test in the context of the 36  
6 percent. We're all trying to draw inferences about  
7 something, let's say it had been 34 percent or 38 percent,  
8 it's this middle range of vehicles that we haven't even  
9 identified who would have been in the 30<sup>th</sup> percentile or the  
10 40<sup>th</sup> percentile and we're drawing inferences on those who  
11 are in the first percentile to inform our judgment. This is  
12 actually a very hard analytical problem for us all and it  
13 comes down to we don't really know who's in which of those  
14 categories because we don't have the information about the  
15 ranking by HEP and that would be particularly useful to  
16 study, who would have been in a different group on a HEP  
17 ranking and how do they behave. And if that's what we can  
18 study under the phrase "revisited," I think that would be a  
19 very useful way to agree not argue about this until we know  
20 some more facts.

21 CHAIR WEISSER: Thank you. Mr. Walker?

22 MR. WALKER: Chris Walker on behalf of the California Automotive  
23 Business Coalition. With regards to the Executive Summary  
24 and the paragraph, the adjustments that the Committee was  
25 recommending to make to the third paragraph on Page 1-2, the

1 second to last sentence, what I heard was some objection to  
2 the word "questionable." I didn't hear what was going to be  
3 replaced in that sentence. To me, with the work that you've  
4 done, years of work, the data that's out there, it seems  
5 reasonable to use a word like "questionable." I don't know  
6 how you will set up the last sentence which says "The  
7 fundamental rationale and bases for the percentage of  
8 vehicles directed to test-only requires a reevaluation" if  
9 in fact you don't say there are some questions there. If  
10 you don't say our data shows inconsistencies. From on  
11 behalf of the men and women that have invested in their  
12 time, their capital, train their employees to participate in  
13 this program and have seen their testing volume depart from  
14 their stations over the years, it is very important that I  
15 think we honor the work that has been done and make sure  
16 that the language is as strong as possible.

17 CHAIR WEISSER: Thank you very much, counselor. Just to  
18 clarify, the wording as I understand it will be changed to  
19 what will be the exact wording on Page 2-13; is that  
20 correct, Rocky?

21 MR. CARLISLE: That's correct.

22 CHAIR WEISSER: Thank you. Thank you for your advice.

23 MR. WALKER: Page 2-13 in -

24 CHAIR WEISSER: "It is our opinion that the decision to direct  
25 36 percent of the vehicle fleet to test-only should be

1       revisited."

2 MR. WALKER:   Okay, okay.   And again, we support this  
3       recommendation.   Of course, we would like to see this even  
4       more strongly worded and I understand the opposing side  
5       representing the current benefactors of the policy wanting  
6       to delay any additional change as far as possible,  
7       continuing to study this, and study it, and study it.  
8       Again, we encourage the Committee to honor the research that  
9       has been done and to start making decisions.   Thank you.

10 CHAIR WEISSER:   Thank you, Mr. Walker.   Okay.   It is 11:30 now  
11       and what we're going to - I've gotten advice from the  
12       longest standing Committee Member - is call this portion of  
13       the meeting to a conclusion.   We'll go into recess until  
14       1:00.   Thank you.

15                   R E C E S S

16                   --oOo--

17 CHAIR WEISSER:   Okay, just for the record, we should reconvene  
18       the session.   This is the afternoon session of the November  
19       28<sup>th</sup> meeting and I would just say that Rocky Carlisle just  
20       passed out to the Committee the correct, revised section  
21       dealing with organization placement of the Smog Check  
22       Program and neither I, nor anyone else on the Committee, has  
23       had a chance to review it insofar as I'm aware.   So we'll  
24       take a few minutes to review this before we start.   Thank  
25       you.

1 --oOo--

2 CHAIR WEISSER: Okay, Members have you finished an opportunity  
3 to review this? Very good. Then I wonder if we should not  
4 turn directly to this item, Rocky, as in our further review  
5 of the report. Have you submitted or given copies of this  
6 to the members of the public?

7 MR. CARLISLE: Yes, they also one. And I want to apologize to  
8 the Committee for that oversight. That was something I  
9 missed late last night.

10 CHAIR WEISSER: We had a brief discussion of this at our last  
11 meeting and I have a vague recollection of Eldon being  
12 interested in seeing this recommendation remain in the  
13 report, whereas others were suggesting that perhaps this  
14 recommendation should drop out of the report. Perhaps we  
15 can get a discussion going among Committee Members. The  
16 recommendation has been changed rather substantially so that  
17 it now, as I read it, would suggest that ARB assume the role  
18 of adopting rules and regulations associated with the Smog  
19 Check Program that would continue to be implemented by BAR.  
20 Is that an accurate summary?

21 MR. CARLISLE: That's correct, yes.

22 CHAIR WEISSER: So I would be interested very much in hearing  
23 other Committee Member's reactions to this revised element  
24 of the report prior to sharing my biases. Please, Gideon?

25 MR. KRACOV: I'm supportive of the recommendation and I think at



1 the very least this is a discussion that is important. I  
2 think the duality of the program in the past certainly has  
3 caused some concern and I think it's a discussion that  
4 should remain on the table, whether it's a discussion whose  
5 time has come and gone, given what happened to the bill, I  
6 don't know. But I still think it's a discussion worth  
7 having. I know that we are not tying these conclusions to  
8 any particular management or individuals at BAR, although I  
9 do think that there seems to be sort of a fresh breeze  
10 blowing through. On the first page here, the fourth  
11 paragraph, the last sentence starts "Currently, the speed  
12 with which any Smog Check Program changes are implemented by  
13 BAR are extremely slow," etcetera, etcetera. Maybe it would  
14 be a little bit more accurate to say "In the past, the speed  
15 with which these changes have been implemented is extremely  
16 slow." I think that would perhaps give some room and defer  
17 to the current management. And we'll see if these past  
18 trends hold true currently. Other than that, I support the  
19 recommendation.

20 CHAIR WEISSER: Then you would - I assume you would suggest that  
21 you would, to make the sentence congruent, you'd say "In the  
22 past, the speed of which Smog Check Program changes are  
23 implement by BAR has been extremely slow and has placed less  
24 weight," you'd put everything kind of in the past-perfect  
25 tense, right?

1 MEMBER KRACOV: Yes, yes.

2 CHAIR WEISSER: Okay. But you believe that this, at least at  
3 this point before hearing other Committee Member's and the  
4 public's reactions, you sound generally supportive of  
5 keeping this in; is that correct, Gideon?

6 MEMBER KRACOV: Yes.

7 CHAIR WEISSER: Okay. Any other comments? Jude?

8 MEMBER LAMARE: Thank you, Mr. Chairman. Thinking back to the  
9 last meeting, I think in fact our memories about it are a  
10 little bit different. At the last meeting, I thought what  
11 we were considering was taking this issue out of the report  
12 entirely and, in fact, a number of Members of the Committee  
13 said, no, we aren't comfortable with that because we think  
14 there really is an issue here, which I think Gideon has put  
15 a good label to it, the duality of the program, and I agree  
16 with what Gideon has said that keeping this in as an issue,  
17 I think this is the simplest way we could present the issue.  
18 The rewrite is much more to the point and it's streamlined  
19 and it simply recommends that there by legislation to  
20 establish regulatory authority over the Bureau of Automotive  
21 Repair and Smog Check Program at the Air Resources Board.  
22 So it does achieve what I was trying to achieve, which is a  
23 greater presence of the Air Resources Board in the direction  
24 - the Board itself, not just the staff level, but the Board  
25 itself in the direction of the Smog Check Program. And I'd

1       like to congratulate Eldon on getting the concept and  
2       putting the draft together and really simplifying this whole  
3       thing for us. We needed to do something different and I  
4       think this does it.

5 CHAIR WEISSER: Thank you. Dennis?

6 MEMBER DECOTA: I have concerns with not leaving it in the  
7       report. I think that needs to be discussed. I don't have a  
8       problem in that, but the solution is simply just moving it  
9       to CARB versus maybe other solutions or at least options  
10      that haven't been fully looked into would be premature for  
11      this Committee to make, I think something that could be  
12      misconstrued in writing as a position of recommendation.  
13      This is not - I don't think - a position of recommendation  
14      at this point in time.

15 CHAIR WEISSER: It certainly reads as a recommendation.

16 MEMBER DECOTA: I have trouble with it that way.

17 CHAIR WEISSER: How would you suggest the Committee handle it?

18 MEMBER DECOTA: As basically stating problems that we see within  
19      the system and readdressing that to the agencies for  
20      clarification so that this doesn't continue, that there be  
21      confusion between implementation of programs and better  
22      tracking. I don't know if we necessarily want to say it's  
23      finite that it needs to go to CARB is what I'm saying, Vic.  
24      I don't know exactly how to frame my mindset right now  
25      without sitting down and writing it out a little bit, but

1        what I'm trying to is I get a little bit nervous in saying  
2        that something is a total resolve to a question and a  
3        recommendation on our opinion when I don't think it is the  
4        consensus of, at least this Committee Member, that  
5        necessarily is are we jumping from frying pan into the fire  
6        so to speak without looking at other alternatives. Is EPA  
7        an alternative to move this -

8 CHAIR WEISSER: CARB is, of course, part of EPA.

9 MEMBER DECOTA: I understand that.

10 CHAIR WEISSER: Okay, thank you. Jeffrey? No, okay. Eldon?

11 MEMBER HEASTON: I just wanted to clarify why we took this  
12        position. Just as you recall, there was a number of - I was  
13        in favor of getting rid of it.

14 CHAIR WEISSER: Oh.

15 MEMBER HEASTON: And I still could be persuaded that way today.

16 CHAIR WEISSER: Good.

17 MEMBER HEASTON: So there's no problem with that. This was  
18        provided as a compromise to allow some jurisdictional  
19        authority for CARB so that when they could just go ahead and  
20        adopt by policy the emissions reductions that can be had  
21        through the program and then leave it so that the Bureau of  
22        Automotive Repair would then have to institute those changes  
23        to make that happen, whether it's like an evap test or even  
24        these cut-points. If they're adopting regulations for new  
25        vehicles, emissions standards, why can't they adopt a

1 standard that says this is what's going to come out of the  
2 tailpipe when we test these older vehicles. So it's  
3 something along that line. That was what I was attempting  
4 to try and do.

5 CHAIR WEISSER: I think that's what this sort of delivers.

6 MEMBER HEASTON: And so if the Committee still feels that they  
7 want to have like that, then this is what I can kind of get  
8 my hands around and agree with. Otherwise, I could still  
9 vote to get rid of the whole thing.

10 CHAIR WEISSER: Thank you.

11 MEMBER HEASTON: And then we'll take another run at it next  
12 time.

13 CHAIR WEISSER: John?

14 MEMBER HISSERICH: The budgetary aspects of this, this leaves in  
15 place essentially the current budgetary arrangement whereby  
16 the revenue from the program would continue to go to BAR.

17 MR. CARLISLE: We stayed silent on that intentionally.

18 MEMBER HISSERICH: Yes, because that obviously becomes - from an  
19 administrative point of view one of the battling points.

20 MR. CARLISLE: Right.

21 MEMBER HISSERICH: So functionally, this would be - we would  
22 envision this as being - playing out. In other words, the  
23 ARB would design the policies and somehow convey them then  
24 to BAR and BAR would be mandated to carry them out under  
25 their current structure. So what would change would be just

1       the authority for designing the standards that are being  
2       implemented; is that essentially what we're -

3 MR. CARLISLE: Well, the whole regulatory process.

4 MEMBER HISSERICH: It would all go through the BAR side.

5 MR. CARLISLE: ARB, yes.

6 MEMBER HISSERICH: And then BAR would have more or less, from  
7       that point of view, the kind of advisory role that ARB now  
8       has when BAR carries it out.

9 MR. CARLISLE: Correct.

10 MEMBER HISSERICH: It would just reverse that role and from a  
11       policy point of view, BAR would become the advisory agency,  
12       then the functional agency to carry it out.

13 MR. CARLISLE: Correct.

14 MEMBER HISSERICH: It gets a little complicated that way.

15 MR. CARLISLE: It's very complicated. But it was the compromise  
16       in the two strategies.

17 CHAIR WEISSER: Jude?

18 MEMBER LAMARE: Thank you, Mr. Chairman. I think you can  
19       envision here, though, that ARB being the policy arm and  
20       reviewing regulation in terms of the overall policy of the  
21       Smog Check Program could indeed adopt a regulation that  
22       would assign to BAR the role of carrying forward,  
23       implementing regulations under its own regulatory authority.  
24       So I don't think this means or should be interpreted to mean  
25       that every regulation affecting the Smog Check Program would

1 have to be adopted by the ARB. That's not what I would want  
2 to see happen. And maybe if Members are okay with this  
3 general concept, but nervous about the extent of ARB's  
4 regulatory umbrella here, that we stick in language that  
5 reserves to the Bureau the regulatory authority to manage  
6 the operation of the program, within the policy envelope  
7 that ARB sets forward. I can go any way on this that the  
8 other Members of the Committee are willing to go, but it  
9 seems like we have spent a lot of time trying to summarize  
10 and capsule and make movement forward on a difficult  
11 program organization within State government and that to  
12 just drop it is a little bit uncomfortable, too.

13 CHAIR WEISSER: Gideon?

14 MEMBER KRACOV: Maybe just getting a sense of where the  
15 Committee is on it. If folks aren't totally comfortable  
16 with something that can be interpreted as a firm  
17 recommendation, Dennis, the paragraph one there can be  
18 watered down a little bit and I do think that it's important  
19 that we give the signal to the legislature that this is an  
20 issue worth discussion, worth investigation, and our  
21 recommendation is that these things should be on the table.  
22 So if we want to go in that direction, we can perhaps water  
23 down, number one, so that it's less of a firm  
24 recommendation, but instead a recommendation that things be  
25 considered or that these be on the table. Maybe that would

1       be more where the Committee is on it.

2 CHAIR WEISSER: Chair?

3 MEMBER DECOTA: Dennis DeCota. My response to that is I could  
4 agree with that. My problem is simply that to throw the  
5 industry a huge curve and how it would interpret things at  
6 this point in the game could be very detrimental to the  
7 whole Smog Check Program and clarity needs to be there. And  
8 that's all that I'm really concerned with. The industry has  
9 to be able to perform. It doesn't need another layer of  
10 ambiguity.

11 CHAIR WEISSER: Dennis, the Chair requests you pass the  
12 chocolates over to him. I'm going to try to be as straight  
13 on this as I can because it is complex and convoluted. We  
14 first got into this issue because of what we saw as an  
15 under-performing Smog Check Program and, quite frankly, at  
16 the policy level, an under-performing BAR. They were not  
17 doing those things that would get more cost-effective tons  
18 out of this program in an effective, efficient or timely  
19 fashion. We believe that that was caused by the fact that  
20 the ARB is charged with the responsibility of attaining  
21 clean air goals, both state and federal clean air goals, and  
22 BAR is principally charged as part of the Department of  
23 Consumer Affairs with making sure the program is run  
24 efficiently and effectively and equitably from the consumer.  
25 And we felt that difference in goals contributed to a



1 difference in focus, that the organizational placement  
2 itself was the structural reason for what we consider to be  
3 disappointing results. We went out of our way to indicate  
4 that this was not caused by any one particular manager or  
5 series of managers, that it was structurally generated. And  
6 I felt it was very important for us to emphasize that. I'm  
7 not sure I was right. I'm not sure that under different  
8 program leadership you would not see this program energized  
9 and moved in the sort of direction that we all hoped that it  
10 would be moving. And it would be my recommendation for this  
11 Committee to remove this recommendation completely from the  
12 report at this time and to see how the performance of BAR  
13 changes over the next year in readiness for its next report.  
14 And at the next report, you'll have an opportunity to  
15 reassess whether or not you want to make this recommendation  
16 or another type of recommendation along these lines. I make  
17 this recommendation to you, Members of the Committee,  
18 because I also believe that we have not had adequate time to  
19 look at, as Dennis characterizes, a variety of options that  
20 might be considered new options, including the one that  
21 we've just seen starting 20 minutes ago, and that I'm  
22 hesitant to try to develop the nuances and wording at this  
23 11<sup>th</sup> hour. I think we would be served better and the State  
24 of California would be served better were we to see how the  
25 wind blows under the new leadership, to see whether there is

1 a higher degree of cooperation, collaboration, and action on  
2 the part of BAR and ARB and this Committee. That would be  
3 my recommendation to you. Eldon?

4 MEMBER HEASTON: Mr. Chair, then I move that we remove the  
5 organizational placement of the Smog Check Program item out  
6 of the report in its entirety.

7 MEMBER DECOTA: I second it.

8 CHAIR WEISSER: That was Mr. DeCota seconding and we're going to  
9 open it up for discussion and then, before we vote, I want  
10 to hear from the public. Please?

11 MEMBER NICKEY: As the person who seconded the original motion  
12 to do this and served on the subcommittee with you, I would  
13 concur. I think the fact that we're trying to wordsmith  
14 this now to choose some middle path is indicative of the  
15 difficulty of trying to do this in a way that is  
16 sufficiently nuanced and conveys our concern and yet doesn't  
17 undercut the value of the rest of the report because, as  
18 much as I think we say we weren't influenced by who the  
19 players were, there was a background of our concern about  
20 the way it seemed to be going at that particular time. So I  
21 think I would agree with the Chairperson that it would not  
22 be the best possible time to do this. We'll see if the air  
23 blows cleaner in the subsequent year, and, if so, revisit  
24 this because we're going to continue to try to produce these  
25 reports timely and have them taken seriously by all

1 concerned. So I would agree with the Chairperson and with  
2 the current motion on the floor.

3 CHAIR WEISSER: Thank you. Bruce?

4 MEMBER HISSERICH: My one factor that really concerns me and it  
5 really doesn't matter the Smog Check Program is placed, is  
6 clean air and I think that as long as we keep that as our  
7 focus and BAR keeps it as their focus, then we'll leave it  
8 as it is. We can revisit it, but ultimately, that has got  
9 to be the focus of us all.

10 CHAIR WEISSER: Thank you. Jeffrey?

11 MEMBER WILLIAMS: I wanted to at least make a try at some  
12 specific wording before we say that we should wait until  
13 next year and propose if the difficulty is in the word  
14 "regulatory" procedures that recommendation one might be  
15 that the legislature establish broad policy authority, which  
16 is back to our original idea, and that number two, and with  
17 BAR's own regulatory apparatus would be instrumental to make  
18 it clear that the actual implementation of the program would  
19 be done by BAR, but the issue of say where the cut-points  
20 are and how stringent, that's a policy issue about clean  
21 air, which is ARB's -

22 CHAIR WEISSER: Could you repeat your specific words, please?

23 MEMBER WILLIAMS: I'm specifically proposing to change in number  
24 one, the legislature establish broad policy authority and in  
25 number two, end by saying BAR's own regulatory apparatus

1       would be instrumental to make clear that -

2 CHAIR WEISSER:   Where would this be?

3 MEMBER WILLIAMS:   On recommendation number two.

4 CHAIR WEISSER:   And where would you put that?

5 MEMBER WILLIAMS:   At the very end of that.   It's missing a  
6       period as it is, but I'm going to -

7 CHAIR WEISSER:   It sure is.   So a new sentence or what?

8 MEMBER WILLIAMS:   A new sentence.

9 CHAIR WEISSER:   And BAR's -

10 MEMBER WILLIAMS:   Own regulatory apparatus would be  
11       instrumental.

12 CHAIR WEISSER:   Instrumental to what?

13 MEMBER WILLIAMS:   To any of the regulations developed and so on,  
14       which is the thought of that paragraph so that ARB is not  
15       setting the licensing requirements and other things.

16 CHAIR WEISSER:   Got it.   Okay.   Any further discussion before we  
17       invite public comment?   Gideon?

18 MEMBER KRACOV:   Yes, this is Gideon.   The way that I see it is  
19       you've got the motion that's on the table and then there's  
20       the other notion that Jeffrey - not motion, but the other  
21       notion, that Jeffrey just discussed and maybe what you could  
22       also do, just to give two options for the Committee - and it  
23       seems to be the intent of the Committee - in recommendation  
24       one it says the "legislature."   Maybe you could put there  
25       "the legislature consider whether to."   Again, you're not

1 giving a -

2 CHAIR WEISSER: I'm going to now - for the first time in four  
3 years and six months, pull this out and indicate we have on  
4 the floor a duly-made motion which has been seconded and  
5 we're opening it up for conversation on the motion that was  
6 made. And according to this book, what you could do is  
7 recommend a substitute motion, but I'm going to advise the  
8 Committee that we not do that, that we - at this point in  
9 time, I think we have the sense of where you're going,  
10 Jeffrey, and what you are suggesting if we were to go that  
11 track, but at this point in time, I think I want to close  
12 off the Committee's discussion on the original motion that  
13 was made and then get some public comment, then return back  
14 to the Committee and see what the Committee thinks about the  
15 original motion, if that's okay with the Committee Members.  
16 Eldon, did you have a comment on that? Okay, so let me  
17 invite public comment on this, hopefully understandable  
18 discussion. I hope we haven't made it convoluted. Bud?

19 MR. RICE: Bud Rice, Quality Tune-Up Shops. My comment in  
20 specific relation to the motion is that my feeling has been  
21 that the BAR has been kind of a sanity check also in terms  
22 of the Smog Check Program. A lot of the issues that we seem  
23 to find ourselves in were driven originally from ARB and EPA  
24 and this pendulum that we've been talking about today in  
25 terms of - well, specifically, the 30 percent rate, before

1       that there was a 50 percent discount factor that was placed  
2       on the program and this pendulum has swung one way and now  
3       just in listening to the Committee, it seems as though the  
4       pendulum is starting to swing the other way a little bit and  
5       the force of the pendulum swing in the beginning was ARB,  
6       EPA and those guys. So the BAR has been kind of a sanity  
7       check in the middle of this thing in my eyes. And as this  
8       pendulum begins to swing back, maybe again there'll be some  
9       sanity placed into it again. Even in terms of where we're  
10      trying to run to, it almost seems as though, from the  
11      Committee's perspective, we've had problems with the BAR so  
12      we'll run to CARB. Well, even in terms of the problems  
13      we've had with getting some clarification on HEP and all  
14      those kinds of things, is that where we want to run to  
15      anyway, because running from this problem, now we're going  
16      to run over here and have these problems. And, again, from  
17      my perspective, BAR's been that kind of sanity check for the  
18      industry. So I would be in favor of you pulling this at  
19      this time. Thank you.

20 CHAIR WEISSER: I'm not going to make any comments on the slow  
21      pitch you just served up to me, Bud, associated with the  
22      sanity levels at different State agencies, only to comment  
23      that I'm just glad that we have terrific staff at both, sane  
24      or not. Mr. Peters?

25 MR. PETERS: Mr. Chairman and Committee, my name is Charlie

1 Peters, Clean Air Performance Professionals, representing  
2 motorists. It seems to me like a significant part of this  
3 discussion is being just left laying on the table and  
4 everybody's trying to ignore it hard, but I think it needs  
5 to be brought up and that this came out of the Clean Air Act  
6 amendments of 1990 and we made a lot of decisions that  
7 California pushed and ended up being overturned by Congress.  
8 The game that we're playing has been laid out by the  
9 California legislature and this certainly looks like a power  
10 play to confiscate that by somebody, probably some business  
11 interest, somebody trying to make some money, I would  
12 imagine. And I don't think that it's an appropriate idea  
13 for this Committee to set the rules and regulations as to  
14 how this State operates. That's the job of the legislature,  
15 in my opinion. So currently the Governor is in charge of  
16 the whole thing so he can do whatever he damn well pleases,  
17 other than the fact that the legislature is sitting there  
18 and can call that into question. And that's what you're  
19 dealing with, the legislature's ability to participate and  
20 you're taking it away from them and giving it to CARB and I  
21 think if anybody is to make that decision in my humble  
22 opinion, that ought to be the legislature in agreement with  
23 the Governor and I think you're out to lunch, period.

24 CHAIR WEISSER: Thank you, Mr. Peters. Any further public  
25 comments? Mr. Ward?

1 MR. WARD: Thank you, Mr. Chairman and Members. Randall Ward,  
2 California Emissions Testing Industries Association. I  
3 hadn't previously weighed in on any of the discussion  
4 relative to this issue, but I do sense that there is a clear  
5 issue that was debated having watched the Committee and  
6 certainly your initial motivation and I think, Chairman  
7 Weisser, even as much as there may have been some issues of  
8 personality, etcetera, that may have added to the motivation  
9 at the time, I think you've been in those situations many  
10 times and have been able to rise above that and be very  
11 objective within the context of your public policy  
12 recommendations. And I ultimately think that's what  
13 resulted here. There was substantial discussion on this  
14 Committee, there was a recognition that there was a huge rub  
15 between the health-based air quality issue and the consumer-  
16 based side of the equation and that there ought to be maybe  
17 something significantly less than the Lieber bill, which  
18 transferred authority, but I thought Mr. Heaston's  
19 compromised language, which clearly put issues specific to  
20 air quality, where the Air Board has the burden of achieving  
21 that bank and the comments that Mr. Kracov made, maybe it  
22 isn't a recommendation, maybe it's just an enunciation of  
23 the issue and that it ultimately results in a concern that  
24 in the context of the comments you made that will be watched  
25 over the next couple of years before the next report is



1 done, but I think this Committee spent substantial time  
2 discussing the issue, they know the problems, and to not  
3 have anything now in the report that at least enunciates  
4 that this is an issue, I think is unfair to the Committee,  
5 the Members that put the work in on it. And I frankly  
6 believe that you should put at least some discussion of this  
7 item and that if there is a sense that the policy issues are  
8 not being orchestrated by the agency that's ultimately  
9 responsible for the policy objectives of air quality. And  
10 it should be in response to Mr. DeCota. This shouldn't be  
11 an industry issue and layers of bureaucracy are cumbersome  
12 regulations. It ought to be health-based. Thank you.

13 CHAIR WEISSER: Thank you. Any further public comment? I'd  
14 like to hear if either agency has anything to say on this  
15 issue. I'm not surprised. Just for the record, both agency  
16 representatives have indicated a desire not to enter into  
17 anything on the record in regard to this item. Okay, ladies  
18 and gentlemen, we've had considerable public input, we've  
19 had considerable discussion. There's a motion that we've  
20 entertained that was presented and has been seconded to  
21 remove this section from the report at this point in time to  
22 see what happens over the next months as they unfold and for  
23 further consideration of this recommendation next year in  
24 the report to see whether or not the Committee is interested  
25 in addressing the recommendation at that point in time.

1 Without arguing one way or another, I'm just going to call  
2 for a vote. Those people who would support removing this  
3 discussion item from the report, please signify by raising  
4 your hand. So that's one, two, three, four, five. Those  
5 that would not want to see this recommendation removed from  
6 the report, please signify by raising their hand. One, two,  
7 three. The count, as I read it, Rocky, is five to three to  
8 remove this recommendation and -

9 MEMBER LAMARE: There's an abstention.

10 CHAIR WEISSER: With one abstention. Okay, are there any  
11 abstentions? Did you abstain? So we have six to three to  
12 remove.

13 MEMBER LAMARE: Then I'll change my vote.

14 MEMBER NICKEY: Maybe we better start over.

15 CHAIR WEISSER: Okay, let's start over. Who made that  
16 suggestion? Okay, the vote is -

17 MR. CARLISLE: Mr. Chairman, if I may?

18 CHAIR WEISSER: Yes.

19 MR. CARLISLE: We only have eight Members present.

20 CHAIR WEISSER: That's great. It would be nice if the Executive  
21 Officer could count. One, two, three, four, five, six,  
22 seven, eight, nine.

23 MR. CARLISLE: Okay, well, I didn't - Gideon was behind the  
24 flowers.

25 CHAIR WEISSER: Okay, thank you. So this one will be eliminated

1 from the report. Rocky, could you give us a suggestion as  
2 to the other areas of change that you think would be  
3 worthwhile for us to talk about prior to voting on the  
4 report as a whole, inviting public input on the rest of the  
5 report and then voting on the report as a whole?

6 MR. CARLISLE: There were no other significant changes to the  
7 report. Those -

8 CHAIR WEISSER: Thank you, Rocky. Are there any other elements  
9 of the report that any Committee Member would like to bring  
10 up at this point in time? Hearing none, I would like to  
11 invite comment on the report from members of the public.  
12 Are there any comments on the report beyond that which we  
13 have spoken? Mr. Peters?

14 MR. PETERS: Mr. Chairman and Committee, Charlie Peters, Clean  
15 Air Performance Professionals representing motorists. Thank  
16 you for your action.

17 CHAIR WEISSER: Thank you. Then now we will bring forward - are  
18 there any other public comments? We will now bring forward  
19 to the Committee a request for someone to make a motion for  
20 the adoption of the report as amended? Will someone make  
21 that motion? It is made by Mr. Williams. It is seconded by  
22 Jude Lamare. And now we'll open up for discussion. Motion  
23 has been made to adopt the report as modified. Any  
24 discussion on the part of Members of the Committee? Seeing  
25 none, is there any discussion on the part of members in the

1 audience?

2 MR. GOLDSTENE: James Goldstene, Air Resources Board. Just one  
3 clarification on the last action removing the discussion. I  
4 think I heard you say, and I just want to know, is there  
5 going to be any reference to this at all in the report -

6 CHAIR WEISSER: No.

7 MR. GOLDSTENE: - in terms of revisiting? I think you had said  
8 something about revisiting.

9 CHAIR WEISSER: No.

10 MR. GOLDSTENE: Okay.

11 CHAIR WEISSER: That's just a policy at this point in time. The  
12 Committee can carry that forward without having it being  
13 mentioned in the report.

14 MR. GOLDSTENE: That's all I wanted to know. Thank you.

15 CHAIR WEISSER: It will also be taken out of the introduction.

16 We will harmonize the report. Any other public comments?  
17 Seeing none, I will ask Committee Members by voice vote to  
18 indicate if they support the - if you support the adoption  
19 of the report and the direction to the Executive Officer to  
20 rewrite the sections that need to be harmonized, send it to  
21 the Vice Chair for a final review, and then get the report  
22 out by the end of the year. All those in favor, signify by  
23 saying aye.

24 ALL MEMBERS: Aye.

25 CHAIR WEISSER: Are there any opposed? Are there any

1        abstentions? Hearing none, the report is adopted as  
2        proposed. Thank you.

3 MR. CARLISLE: Thank you, Mr. Chairman and Members of the  
4        Committee.

5 CHAIR WEISSER: And I want to thank Rocky and Steve and each and  
6        every Member of the Committee for working on this report in  
7        such a way as to get it out on time. There is nothing that  
8        would have made me feel, frankly, worse than in my last year  
9        on the Committee not getting the report out on time. This  
10       Committee went for many years without ever getting this  
11       report out and I'm real proud that it's gotten this report  
12       each year that we've been required to. So I'm very, very  
13       pleased with that. And I'm pleased with the nature of the  
14       recommendations that are in here. I think they've been  
15       well-served.

16 CHAIR WEISSER: Is there any other business that any Committee  
17       Member would like to bring up?

18 MEMBER HEASTON: Is this the time for future agenda items, or  
19       are we there yet?

20 CHAIR WEISSER: Beats me. Yes, we're moving to No. 10, the IMRC  
21       Subcommittees.

22 MEMBER HEASTON: Right, okay, so we'll wait then.

23 CHAIR WEISSER: So we'll move to that right now. Rocky, do you  
24       want to introduce this item to us?

25 MR. CARLISLE: The IMRC Subcommittees, they require a lot more

1 work before I present them to the Committee. We are expound  
2 on each of those topics and consolidate and then prioritize  
3 those topics before we present them to the Committee.

4 --oOo--

5 CHAIR WEISSER: Okay. We'll do - I think before we do public  
6 comments, I want to do No. 12, which is the Future Agenda  
7 Items because I think the public might have some comments on  
8 that. How would you introduce this item, Rocky?

9 MR. CARLISLE: Essentially, that was there as kind of a catch-  
10 all because oftentimes in the Committee, there were issues  
11 that came up that we really couldn't discuss but we wanted  
12 them put on the calendar in the future.

13 CHAIR WEISSER: Are there such items? John?

14 MEMBER HISSERICH: I was interested in hearing something more  
15 about BAR's enforcement activities and how they carry those  
16 out. Steve's report alluded to the issues and I don't know  
17 much about it. Maybe somebody from BAR could come and  
18 explain that to us as to how they're carried out and what  
19 criteria they use - without revealing State secrets, but  
20 tell us how they go about doing what they do to enforce  
21 their rules.

22 MR. CARLISLE: I think it would be best if I spoke to BAR on  
23 this so they could give us a presentation and so they have  
24 an opportunity to prepare rather putting poor Allan on the  
25 spot.

1 MEMBER HISSERICH: No, that's right. However you want to do it.

2 I'd just like to get that out so we can hear about it.

3 CHAIR WEISSER: Yes, at some future meeting.

4 MEMBER HISSERICH: Yes.

5 CHAIR WEISSER: And I - if I were still here, I would really

6 like that presentation to kind of deal directly with some of

7 the issues that Steve raised. And I don't want it being

8 presented - I wouldn't want it being presented to BAR like

9 have you stopped beating your wife kind of thing. Steve is

10 basically saying, BAR, you've got this enforcement program

11 that's at least 20 percent filled with crooks and you're not

12 doing anything about it. Or what you're doing isn't solving

13 the problem, what do you have to say about that?

14 MEMBER HISSERICH: Well, that wasn't the way I said it.

15 CHAIR WEISSER: I think that there's a platter here, there's an

16 issue here, that if we do this right, if you do this right,

17 you could have a really meaningful discussion on this

18 alignment of motivation of the stakeholders, of the public,

19 of the dealers, of the regulators, because I really do think

20 at some level there is a misalignment - well, I know there

21 is a misalignment and I don't think it's a simple issue. I

22 think it's a very complicated issue and I can guarantee you

23 that solving it is not simple because if it was, we got

24 bright people in this program left and right that would have

25 come up with - Steve has come forward with raising an issue.

1 First, we need to find out if his thinking is correct or is  
2 it too simple, is there something wrong. I tend to think  
3 it's half-correct and half-incorrect. But it certainly  
4 serves us well to look at the issue. I think it raises a  
5 gigantic issue and I do think there's this misalignment of  
6 economic interest with program goals and I do think there  
7 are ways to realign some of those. I'm not sure if the  
8 tools that Steve has suggested are sufficient, nor do I  
9 think the bounty program is necessarily the way to go based  
10 upon what we've heard in previous experiences in that  
11 regard. But there are things that people of goodwill can  
12 explore on this, so Allan, good luck. Are there other  
13 future agenda items? Roger?

14 MEMBER NICKEY: There's been some discussion here about  
15 radically changing the testing procedure in the future  
16 centered pretty much around eliminating tailpipe testing and  
17 that kind of thing and the reasoning given was that the  
18 equipment can't keep up with the new technology and I would  
19 be interested in hearing from the equipment people what's on  
20 the horizon for third or fourth generation and ESP would be  
21 a good one to do that. They have some good people, I think  
22 that they must have something on the boards. Like what are  
23 we going to do in the future for testing or are we just  
24 going to rollover and say to heck with it, we won't do it  
25 anymore or where are we going with that?



1 --oOo--

2 CHAIR WEISSER: Okay. Any other Committee Members? I'd like to  
3 ask the public if there are any comments on this item or  
4 anything else they'd like to, at this point in time before  
5 we adjourn the meeting, raise. We'll start with Mr. Rice  
6 and end with Mr. Peters.

7 MR. RICE: Bud Rice, Quality Tune-Up Shops. I just wanted to  
8 take 30 seconds, if I could, and thank first off the full  
9 Committee for all the work that you guys have done, both in  
10 terms of the report that just got finalized and for all the  
11 work that you've put in for the whole year, and then,  
12 specifically, to you, Chair, for your hard work. And even  
13 though I've disagreed with you, it's been with respect.

14 CHAIR WEISSER: Thank you very much. That respect is shared,  
15 Bud. Thank you. And on behalf of the Committee, thank you  
16 for the strokes in terms of the work that they put in. It  
17 far exceeded the pay that they received. Mr. Peters?

18 MR. PETERS: Yes, hello, Mr. Chairman and Committee. My name is  
19 Charlie Peters, Clean Air Performance Professionals. I have  
20 spent a little time trying to pay a little attention to this  
21 Committee and its previous derivations since, as a matter of  
22 fact, I was just looking at home, there's a picture of me in  
23 1988, the first Smog Check Review Committee meeting that I  
24 went to. I'd say that the State of California is very  
25 fortunate to have had a person of your stature, Mr.

1 Chairman, and this Committee. It's pretty amazing if you  
2 really step back and take a look at the kind of expertise  
3 and horsepower that's been laid down here over the last -  
4 since 2002 with this Chairman and with this Committee and  
5 just to be allowed to be in this room and put some input in  
6 is a huge honor and privilege and I thank you for allowing  
7 me to do that. There's been comments here today about how,  
8 what tomorrow may look like, and I can at least tell you,  
9 Mr. Chairman, that at least from my perspective, you're  
10 always welcome here if I'm here and I'll fight anybody that  
11 will say otherwise and this should be an open process and  
12 your expertise and your background certainly makes you  
13 qualified to be a participant and I think you're always  
14 welcome here, at least from my perspective, and I thank you  
15 all for your hard work and wish you all a Merry Christmas.  
16 Thank you.

17 CHAIR WEISSER: Thank you, Mr. Peters. And on behalf of the  
18 Committee, I want to wish you and everyone here a Happy  
19 Holiday Season. I will say in my closing remarks before I  
20 adjourn this meeting that four and a half years ago when I  
21 was appointed to the Committee, I came with some misgivings  
22 because of the perceptions that were shared to me by others  
23 of the Committee, of its ability to produce reports that  
24 were actually listened to or read, even if they were  
25 disagreed with. The Committee had not been able to do its

1 work, to get its recommendations out, to have the sort of  
2 meaning discussions, meaning exchange of views that I think  
3 we are created to have. And it has been an honor working  
4 with the existing Membership and those Members that have  
5 come and left during my brief tenure. And it's been a  
6 pleasure most of the time working with the folks from the  
7 agencies and the public. There is not a - I don't think  
8 we've run across a single person whose goals are  
9 antithetical to the public interest. Everybody here is  
10 coming with their set of ambitions in terms of what they  
11 think this program should look like to serve its main  
12 purpose. And, yes, we all come with some level of self-  
13 interest, but by and large, I've been really impressed with  
14 the ability of the public and the agencies, most importantly  
15 the Members of this Committee to put self-interest aside to  
16 try to look at the big picture in what will make this  
17 program work. I am proud to have served as the Chair of  
18 this Committee for four and a half years and I will tell you  
19 these flowers will fade long before my memories of this  
20 Committee will fade and I'm glad of the plaque, I'm glad of  
21 the bear, the Oakland A's bear, but I'm mostly proud of this  
22 baseball with the signatures of my Committee Members on it.  
23 So from the bottom of my heart and the top of my head, I  
24 want to thank each and every one of you. It's been a ball,  
25 it's been great. Thank you very much.

1 MEMBER DECOTA: Thank you for your leadership.

2 CHAIR WEISSER: And with that, I will entertain a motion for the  
3 meeting to be adjourned, Eldon seconds. And with that, this  
4 meeting is adjourned. Thank you.

5 **- MEETING ADJOURNED -**

TRANSCRIBER'S CERTIFICATION

This is to certify that I, TERRI O'BRIEN, transcribed the tape-recorded public meeting of the Bureau of Automotive Repair dated November 28, 2006; that the pages numbered 1 through 100 constitute said transcript; that the same is a complete and accurate transcription of the aforesaid to the best of my ability.

Dated December 13, 2006.

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Terri O'Brien, Transcriber  
Foothill Transcription